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INTRODUCTION

1. The present report is submitted to the General Assembly in response to its resolution 46/78, in which the Secretary-General was requested, inter alia, to report on developments pertaining to the United Nations Convention on the Law of the Sea and all related activities. Other reports have also been prepared at the request of the General Assembly: a special report marking the tenth anniversary of the adoption of the Convention on "Progress made in the implementation of the comprehensive regime embodied in the United Nations Convention on the Law of the Sea" (A/47/512), prepared pursuant to General Assembly resolution 46/78; and a report on "Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas" (A/47/487), prepared in accordance with General Assembly resolution 46/215.

2. Under the widely held assumption that the United Nations Convention on the Law of the Sea would enter into force in the next few years, a number of important initiatives have been taken. These are intended to serve the purposes of promoting universal acceptance of the Convention, facilitating the actions required following its entry into force and generally ensuring that international cooperation in ocean affairs can evolve in a coherent manner. Thus, the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea is now in the process of concluding work on its final reports, which would be submitted to the Assembly of the Authority at its first session, and to the meeting of States parties to the Convention as far as the report regarding the Tribunal is concerned. The Secretary-General is actively pursuing his informal consultations on certain issues relating to the regime for deep seabed mining, and a group of experts will be convened to review the provisions of the Convention on the Continental Shelf, having regard to the future Commission on the Limits of the Continental Shelf. The main components of the United Nations system concerned with ocean affairs are also turning their attention to the impacts of the entry into force of the Convention, and are stressing the need to establish a distinct system-wide mechanism for ensuring a cooperative and coordinated approach to ocean affairs, as part also of the follow-up to Agenda 21 adopted by the United Nations Conference on Environment and Development (UNCED).

3. Prominent among the developments in 1992 is the adoption of Agenda 21, chapter 17 on "Protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas and the protection, rational use and development of their living resources" (A/CONF.151/26 (Vol. II and Corr.1, p. 130)). This component of Agenda 21 has received wide attention, it being understood that critical environmental problems are shared globally and that oceans and coastal areas are key components of most of those global problems. Chapter 17 has been widely applauded for its concrete detail and comprehensiveness, for the inclusion of a number of forward-looking initiatives, and for the way in which it supports and builds on the Convention on the Law of the Sea. Its introduction reminds that the provisions of the Convention set forth the rights and obligations of States and provides "the

international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources". In various other contexts also, chapter 17 emphasizes the importance of effective implementation of the Convention for environmentally sustainable development. Throughout the work of UNCED, both signatories and non-signatories to the Convention supported this fundamental approach to the Oceans Chapter of Agenda 21.

4. Noted in the present report is the substantial amount of new activity, focused at regional and subregional levels, which relates to the conduct of ocean affairs. Attention should be paid to all such developments, and to their legal, political, economic, scientific and institutional impacts. It would be useful to undertake a global review of the status and functions of existing and planned regional and subregional arrangements in order to promote an exchange of information and experience globally, as well as closer coordination regionally and subregionally.

PART ONE

DEVELOPMENTS RELATING TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

I. STATUS OF THE CONVENTION

5. The United Nations Convention on the Law of the Sea received a total of 159 signatures before the period for signature closed on 9 December 1984. It will enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession. As of 1 October 1992, 50 instruments of ratification and two of accession (a total of 52) have been deposited with the Secretary-General, as follows: Angola, Antigua and Barbuda, Bahamas, Bahrain, Belize, Botswana, Brazil, Cameroon, Cape Verde, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominica, Egypt, Fiji, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Iceland, Indonesia, Iraq, Jamaica, Kenya, Kuwait, Mali, Marshall Islands, Mexico, Micronesia (Federated States of), Namibia, Nigeria, Oman, Paraguay, Philippines, Saint Lucia, Sao Tome and Principe, Senegal, Seychelles, Somalia, Sudan, Togo, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Yemen, Yugoslavia, Zaire and Zambia.

II. STATE PRACTICE AND NATIONAL POLICY

A. Claims to maritime zones 1/

6. According to the information available at the Secretariat as of 1 October 1992, the outer limits of the claims by coastal States to the various maritime zones, measured from baselines, are as follows:

	Number of States
(a) Territorial sea	
12 miles	114
Less than 12 miles	12
More than 12 miles	17
(200 miles	12)
(20-50 miles	5)
(b) Contiguous zone	
24 miles	38
Less than 24 miles	5

	Number of States
(c) Exclusive economic zone	
200 miles ..... (16 States claim an exclusive fishery zone of 200 miles and 8 States claim exclusive fishery zones of less than 200 miles)	86
(d) Continental shelf	
200 metre isobath plus exploitability criterion	42
Outer edge of continental margin, or 200 miles	21
200 miles	6
Others	9

In addition, 16 States have claimed archipelagic status, although not all have specified archipelagic baselines.

B. Recent legislation 2/

7. States continue to adopt or modify their legislation in accordance with the provisions of the Convention. Argentina's act of 14 August 1991 states for the first time that its territorial sea extends to 12 miles. Belize, on 24 January 1992, established a 12-mile territorial sea, but retained the historic 3-mile limit, extending from the mouth of the Sarstoon River to Ranguana Caye, the purpose being to provide a framework for the negotiation of a definitive agreement on territorial differences with Guatemala. A claim to a 12-mile limit in that particular area would deny Guatemala direct access to the high seas. Belize has affirmed its intention to undertake negotiations with Guatemala; but, in the event of failed negotiations, it would effect delimitation "on the basis of international law". 3/ The new law also makes provisions for an exclusive economic zone. Pending agreement, the maritime boundary with the adjacent States, Guatemala and Honduras, shall be the equidistance line.

8. China adopted a law on the territorial sea and the contiguous zone on 25 February 1992. The new law confirmed a 12-mile territorial sea and establishes a 12-mile contiguous zone. It requires permission for warships to enter the territorial sea. It also adds "security" to the category of laws and regulations whose violations are punishable in the contiguous zone.

9. It further requires foreign nuclear-powered ships and other ships carrying nuclear, toxic or other dangerous materials to carry certain documents and observe special precautionary measures when passing through the territorial sea.

10. Jamaica, in 1991, established a 200-mile exclusive economic zone and made consequential amendments to existing legislation on such diverse subjects as narcotic drugs, fishing, wrecks and salvage, offshore petroleum, shipping, and wildlife protection, extending the geographic scope of application of relevant legislation to the exclusive economic zone. The Jamaican law is unique in claiming jurisdiction in respect of the "recovery of archaeological or historical objects" in the exclusive economic zone. The act expressly refers to the rights and duties of other States in the exclusive economic zone with respect to the freedoms of navigation and overflight and of the laying of submarine cables and pipelines and other internationally lawful uses of the sea related to such freedoms.

11. With respect to maritime boundary delimitation, the act provides that the delimitation of the boundaries of the exclusive economic zone shall be affected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

12. Of particular interest with respect to the development of the Arctic and for international rules of navigation is the continued interest of the Russian Federation in developing the "Northern Sea Route" (from the Novaya Zemlya Straits to the Bering Strait), to create a viable North-East Passage for international shipping. Special rules have been promulgated. The Regulations for Navigation on the Seaways of the Northern Sea Route, 4/ which came into effect in July 1991, established non-discriminatory rules for domestic and foreign shipping with respect both to safe navigation and pollution prevention. Navigation would be accomplished by compulsory ice-breaker assisted pilotage and would be organized and controlled by a special maritime administration. The feasibility of this route for commercial vessels has yet to be established, but considerable effort with Norway, and more recently with Finland, is devoted to a study of its economic and technical aspects. 5/

C. The Commonwealth of Independent States

13. The disintegration of the Soviet Union, a major maritime power, into 15 independent States will undoubtedly exert considerable influence on the law of the sea and on maritime policy generally. The Commonwealth of Independent States (CIS), established on 8 December 1991, comprises 11 of those States, including the six land-locked States, three of which have access only to the Caspian Sea.

14. In several enactments of the CIS, and in individual legislation of its members, there is strong evidence of a step-by-step transitional approach that will clarify the status of international conventions to which the Soviet Union was party and the laws applicable, inter alia, to maritime zones and regimes. There is as yet no evidence that future legislation would deviate from the internationally recognized norms and principles of the law of the sea.

15. The Agreement Establishing the Commonwealth of Independent States, as supplemented by the Declaration of Alma Ata of 21 December 1991 (A/46/771, annex II, and A/47/60, annex II), renders void the general applicability of Soviet laws, but asserts that Soviet obligations under international agreements will be discharged in accordance with constitutional procedures. Both the Russian Federation and Ukraine have subsequently reaffirmed that commitment. 6/

16. As concerns the formal adoption or continued applicability of Soviet maritime legislation, article 2 of the Enactment of the Supreme Soviet of the Russian Federation (12 December 1991) affirms the continuing validity of legislative norms until the moment when and if they are replaced and provided that they are not at variance with Russian legislation. It has been generally understood, none the less, that this provision would cover acts of the Soviet Union which regulated the regime of the territorial sea and the exercise of innocent passage, the subject of the 1989 USSR/USA Joint Statement and the subsequent 1989 amendments to USSR regulations, which exclude any possibility of an arbitrary discriminative restriction of the right of warships to innocent passage. In that connection the USSR/USA Joint Statement on the uniform interpretation of norms of international law governing innocent passage should be recalled. 7/

17. The only developments to date to deal specifically with maritime questions are the Agreement on the Protection of the State Boundaries and Maritime Economic Zones of the States-Participants of the Commonwealth of Independent States (CIS) of 20 March 1992, and the Russia-Ukraine Agreement on the Black Sea fleet of 3 August 1992. 8/ States participants in the CIS are obliged not to undertake on the State boundaries and in the maritime economic zones actions which cause harm to the interests of other CIS States. 9/ The agreement on the disposition of the Black Sea fleet also adopts a transitional approach, whereby Ukraine and Russia have agreed to joint command of the 300-ship fleet and its bases up to 1995, by which time they should have negotiated a final settlement on the division of the fleet and the use of the bases.

18. Set against those decisions, are the number of bilateral and multilateral agreements and arrangements, particularly in the Arctic region and the Black Sea, which involve cooperation on maritime matters, and which thus provide substantial assurance as to the provisional acceptance of existing maritime boundaries and the continuing validity of legislation and commitments under bilateral and multilateral agreements. 10/

19. Finally note should be taken of the impact of the emergence of six new land-locked States. Attention is drawn to General Assembly resolution 46/212 of 20 December 1991, which reaffirmed the right of access of land-locked countries to and from the sea and freedom of transit through the territory of transit States by all means of transport, in accordance with international Law. An expert meeting is called for in 1993 among land-locked and transit States and donors to propose appropriate concrete action.

D. The question of the universality of the Convention on the Law of the Sea

20. With 52 ratifications and accessions, the Convention may enter into force in the near future. However, since the overwhelming majority of the ratifications are from developing countries, the long-standing intent of the international community to achieve a universally accepted Convention takes on yet new meaning. Widely recognized is the need to press forward and cement the foundations of the law of the sea and so enable the development of international law and the evolution of international cooperation on ocean affairs to proceed more expeditiously and coherently.

21. In view of the important political and economic changes that have taken place in the 10 years that have elapsed since the adoption of the Convention, some directly affecting its deep seabed mining provisions, others affecting international relations in general, the Secretary-General has taken the initiative of convening informal consultations aimed at achieving universal participation in the Convention.

22. The consultations began in 1990 and continued in 1991, in the course of which nine issues relating to the regime for deep seabed mining as contained in the Convention were identified as problem areas in particular for industrialized States: Costs to States Parties, the enterprise, decision-making, the review conference, transfer of technology, production limitation, compensation fund, financial terms of contracts and environmental considerations. The results were summarized and circulated to all Member States in the informal Note of the Secretary-General of 31 January 1992.

23. During 1992, the Secretary-General, assisted by the Legal Counsel, continued their informal consultations, which are now open-ended. During the last session, it was decided that environmental considerations were no longer considered a controversial issue in the deep seabed mining context and they were dropped from the list of identified problem areas. The Secretary-General intends to continue his initiative and convene more sessions.

III. SETTLEMENT OF CONFLICTS AND DISPUTES

A. Maritime delimitation

24. A number of maritime delimitations have been successfully concluded by negotiation, for example, the agreements delimiting the continental shelf between Belgium and the United Kingdom (29 May 1991) and between France and the United Kingdom (25 July 1991). Renewed negotiations are about to begin between Norway and the Russian Federation with respect to the continental shelf and exclusive economic zone in the Barents Sea. 11/

25. Interim solutions continue to be widely adopted for delimitation of maritime zones. For example, the use of provisional lines, adopted originally for the purposes of the 1987 Treaty on Fisheries between the United States and

certain Central Pacific Island States, has been encouraged in the 1992 Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region (see para. 123 below).

26. Several delimitation cases are still pending with the International Court of Justice (see A/46/724, paras. 29 to 33), including the second application of Guinea-Bissau for the delimitation of "the whole of the maritime territories" of Guinea-Bissau and Senegal. On its first application, the Court found the 1989 Arbitral Award to be valid and binding. The fact that the Award had not dealt with the boundaries of the exclusive economic zone and had not therefore delivered a complete delimitation of the maritime areas involved, was attributed to the wording of the 1985 Arbitration Agreement. On its second application, the Court held that it would be highly desirable that elements of the dispute not settled by the 1989 Award should be resolved as soon as possible, as both parties desire. Senegal has made a declaration that it would accept negotiations on the boundary of the exclusive economic zone.

27. The Chamber of the Court delivered its Judgment on the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras; Nicaragua intervening) on 11 September 1992. It decided that the Gulf of Fonseca is an historic bay held in sovereignty jointly by the three countries, but excluding the existing three-mile belt which is held under the exclusive sovereignty of each. The Bay, including the three-mile belt, continues to be subject to the right of innocent passage. The waters at the central portion of the closing line of the Gulf are subject to the joint entitlement of all three States unless and until a delimitation is effected. With respect to the waters outside the Gulf, the Chamber decided that the closing line would constitute the baseline and that all three States were entitled to territorial sea, continental shelf and exclusive economic zone. 12/ In this regard the Chamber stated:

> "Given that there is a condominium of the waters of the Gulf, it follows that there is a tri-partite presence at the closing line and that Honduras is not locked out from rights in respect of the ocean waters outside the bay ... Since the legal situation on the landward side of the closing line is one of joint sovereignty, it follows that all three of the joint sovereigns must have entitlement outside the closing line to territorial sea, continental shelf and exclusive economic zone. ... Whether this situation should remain in being, or be replaced by a division and delimitation into three separate zones is, as inside the Gulf also, a matter for the three States to decide. Any such delimitation of maritime areas will fall to be effected by agreement on the basis of international law." 13/

28. One delimitation case has been settled by arbitration. The dispute between Canada and France over the waters surrounding St. Pierre et Miquelon, arose essentially over fisheries problems. The International Arbitral Tribunal rendered its award on 10 June 1992, delimiting a single maritime boundary, as requested by the parties. The decision creates for France a zone of 3,607 sq. miles, which extends 12 miles to the east of the islands, 24 miles to the west and 200 miles to the south in a narrow corridor

10.5 miles wide. This decision comes at a time of drastic reductions in cod catch limits by Canada (February 1992), temporary suspension of cod fishing in the North West Atlantic by the European Community (May 1992), and a two-year total ban on fishing for northern cod by Canada for the entire northeastern coast of Newfoundland and Labrador (July 1992). Those actions have been taken in response to severely depleted stocks. The North Atlantic Fishery Organization has also recommended (June 1992) that Canadian fishermen should catch only one third of last years's catch on the North Atlantic high seas. It may be noted that the tribunal held that "the facts submitted to the Court indicate that the proposed demarcation will not have a radical impact on the existing pattern of fishing in the area". 14/

B. Other conflicts and disputes

29. In the case brought against Australia by Portugal with respect to the 1989 Treaty between Australia and Indonesia on joint development of the Timor Gap (see A/46/724, para. 40), Portugal has claimed that actions by the Joint Authority established by the Treaty do not exempt Australia from individual responsibility and has reserved itself the right to obtain reparations in virtue of all the damages caused by the "illegal actions" (see A/47/65, annex). The Authority had approved 11 production-sharing contracts in Area A of the joint zone.

30. The case concerning Passage through the Great Belt (Finland v. Denmark) was removed from the list in September following a letter from Finland stating that a settlement of the dispute had been attained and, at the same time notifying the Court of the discontinuance of the case by Finland. 15/ It had generated considerable debate on the regime for international straits, as well as on the definition of ships. It also prompted the suggestion that, in future, questions of fixed bridge constructions over international straits should be resolved through international rules, standards and procedures promulgated by the International Maritime Organization (IMO), analogous to those done for sealanes and traffic-separation schemes through straits. 16/

C. Regional problems

31. The South-East Asian region has seen a growing political commitment to strengthening security cooperation, while at the same time broadening its definition and scope. Problems and opportunities in the marine sector have exerted very strong influences on that development.

32. Considering the numerous disputed territorial claims that exist in the region, and the importance of the marine resources at stake, the potential for conflict is very real. Of the nine coastal States, seven have claimed an exclusive economic zone, but, since the whole region is, geologically, one single continental shelf (the Sundra Shelf), there are several potential conflict areas - the Spratlys (Nansha), the Gulf of Tonkin, the Gulf of Thailand, the Celebes Sea, Natuna Islands, Straits of Malacca and the Timor

Sea. In addition to the claims of China, a number of other claims have also been recently renewed. 17/

33. The main focus is on the Spratly Islands in the South China Sea, particularly following China's adoption of new legislation (see para. 8), designating those islands as Chinese territory, and the subsequent award of an offshore exploration contract in an area also claimed by Viet Nam. 18/ Those developments brought yet new attention to bear on an already highly complex situation: China, Taiwan Province of China and Viet Nam claim sovereignty over the whole archipelago; Malaysia, Brunei Darussalam and the Philippines claim various atolls that lie within their exclusive economic zones.

34. The various informal meetings held over the past year on "managing conflicts" in the region have served to highlight the value of regional consultations. The Association of South-East Asian Nations (ASEAN), in the Singapore Declaration (January 1992), asserts that "intra-regional dialogues" are the most viable means of clarifying and resolving threats to regional peace and security. Those efforts opened the way for the adoption of the Declaration on the South China Sea at Manila on 22 July 1992 (A/47/357, annex). It, in turn, can be expected to generate a new series of regional consultations, at a more formal level.

35. The Declaration calls on the six parties concerned in the Spratly Islands dispute, three of which are ASEAN members, "to apply the principles contained in the [1976] Treaty of Amity and Cooperation in South-East Asia as the basis for establishing "a code of international conduct over the South China Sea". The parties to the Declaration have also resolved to explore the possibility of broadly conceived cooperation in the South China Sea, encompassing a number of issues of mounting concern, experienced also on a wider regional basis: safety of maritime navigation and communication, maritime search and rescue, illicit drug trafficking, marine environmental protection, and piracy and armed robbery (see sect. III B below).

36. It should be noted that some of the parties concerned have at various times indicated a preparedness to discuss setting up joint (provisional) arrangements to develop offshore oil and gas fields in the Spratlys, frequently citing the Malaysia/Thailand agreement (see A/46/724, paras. 26-28). 19/

37. The long-standing problem of Bolivia's access to the sea has been settled by the Framework Agreement on the "Grand Marshal Andrés de Santa Cruz" Binational Project for Friendship, Cooperation and Integration, signed with Peru on 24 January 1992, in which Bolivia gains not only an access to and from the sea, but is also allowed to conduct fishing activities through joint ventures with Peruvian companies, thus giving effect for the first time to the provisions of the Convention allowing the participation of a land-locked State of the same region in the exploitation of living resources of the exclusive economic zone. 20/

IV. CRIMINAL LAW ENFORCEMENT

38. Recent developments with respect to illicit drug trafficking and piracy and armed robbery are further underlining the need for more effective maritime surveillance and law enforcement. In a number of instances, new arrangements have been introduced to provide for joint surveillance operations and to permit States to continue "hot pursuit" into the territorial sea of neighbouring States. The Convention on the Law of the Sea (article 111) gives a coastal State the right of hot pursuit beyond waters under its jurisdiction; however, pursuit ceases when the ship enters the territorial sea of its own State or that of a third State. Recent bilateral agreements on coordinated surveillance of territorial sea include those by Trinidad and Tobago and Venezuela (July 1991) with respect to drug trafficking, and by Indonesia and Singapore (November 1991) which authorizes hot pursuit of pirates into each other's territorial sea. Greater use of reciprocal arrangements for hot pursuit is also receiving new attention in the fisheries sector.

A. Illicit drug trafficking

39. Article 17 of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which is based on article 108 of the Convention on the Law of the Sea, provides, inter alia, that, when a Party has reasonable grounds to suspect that a vessel exercising the freedom of navigation in accordance with international law and flying the flag or displaying marks of registry of another Party is engaged in illicit traffic, it may request the flag State to authorize it to take appropriate action, including boarding and searching the vessel and, if evidence of involvement in illicit traffic is found, take appropriate action with regard to the vessel, persons and cargo on board. The party which has taken such action must promptly report the results to the flag State. The 1988 Convention also calls for bilateral or regional agreements for effectively implementing article 17, in addition to national legislation facilitating enforcement. 21/ However, illicit traffic in narcotic drugs by sea remains a global problem of major proportions.

40. Commitments by Governments to promote regional cooperation on the control of drug traffic by sea may now be found in such recent documents as the Declaration of San Antonio (27 February 1992), 22/ the Declaration of the South China Sea (see paras. 34 and 35 above), and the South Pacific Forum Communiqué (9 July 1992). 23/ A draft regional convention is being prepared under the auspices of the Council of Europe to facilitate implementation of article 17, with particular attention to procedures that would enable flag States to respond quickly and effectively to requests made to them to stop and board suspected vessels. 24/

41. The United Nations Commission on Narcotic Drugs has now taken up the issue and, in a widely sponsored resolution (8(XXV) adopted on 15 April 1992), has called on all States, not only those party to the Convention, to implement

article 17 and enter into formal bilateral and regional agreements and arrangements. Its basic aim is to facilitate authorization to conduct an at-sea boarding of a vessel registered in another State. Thus, States are requested to respond expeditiously to requests for confirmation of vessel registry and for authorization to take appropriate measures; to notify the Secretary-General of the responsible national authority; to maintain detailed registry records that would expedite confirmation of a ship's identity; and to adopt general policies and procedures covering the circumstances and manner in which cooperation on maritime law enforcement would be provided. As a consequence, activities under the United Nations International Drug Control Programme will be expanded specifically to promote full implementation of article 17 of the Convention, nationally, bilaterally and regionally, including the development and maintenance of vessel information systems. 25/ Close coordination between the United Nations and IMO is also anticipated. 26/

42. Resolution 8(XXV) also urges States to ensure that illicit traffic by sea is punishable as a criminal offence under national law and to extend their jurisdiction over such offences in accordance with the limits established in national and international law. It may be noted, in this respect, that the International Law Commission specifically includes illicit drug traffic in the draft Code of Crimes against the Peace and Security of Mankind (art. 25). 27/

B. Piracy and armed robbery

43. Piracy and armed robbery at sea have been persistent problems for merchant shipping in several regions around the world, particularly in South America, West Africa and South-East Asia. The problem has reached crisis proportions over the past year in the Malacca/Singapore Straits, used by more than 40,000 merchant vessels a year. Urgent appeals have been issued by IMO for all incidents to be reported, and for the strengthening of preventive and suppressive measures, including joint action by coastal States. 28/ Even though the official reports to IMO on incidents in the Straits are considered to be conservative, they none the less show dramatic increases: 56 cases in 1991 as compared to 36 in 1990 and 6 in 1989. Singapore's figures show a larger number of attacks, with 50 between January and May of this year. It is widely agreed that available figures still do not reflect the true situation, since many incidents go unreported.

44. The shipping industry is deeply concerned, to the extent that direct representations have also been made to the Secretary-General of the United Nations by the International Federation of Shipmasters' Associations and the Baltic and International Maritime Council. 29/ They emphasize that piracy and armed robbery are a serious threat to the lives of seafarers, to vessels, to the marine environment and to commercial interests. There have been incidents where large oil tankers have been left to drift out of control for substantial periods, thus inviting the risk of strandings, collisions or sinkings. Those organizations urge the General Assembly to call on coastal States to take all necessary measures to halt these assaults, including joint coordinated efforts. 30/

45. By the ASEAN Declaration on the South China Sea, the six Governments have now resolved to collaborate on anti-piracy operations, and several (Indonesia, Malaysia and Singapore) have already agreed to joint marine patrols in the area of the Malacca/Singapore Straits. The Government of the Philippines has also offered to convene a special meeting on coordination arrangements among the ASEAN countries involved.

46. Beginning with its Ministerial Meeting on the Environment (February 1992), ASEAN has also been considering the establishment of an international anti-pollution fund to deal with the problems of enforcing pollution controls on ships in the Straits and combating pollution incidents. The piracy problem has been considered also within that framework, and proposals advanced that would impose a levy on shipowners to help pay both for pollution surveillance aircraft and the posting of police guards on merchant vessels in the Straits and in the South China Sea. Shipowners have objected to such a levy, particularly in respect of piracy, stressing that it is the duty of Governments to ensure safe passage in their waters. There have been calls also for multilateral discussion and international standard-setting on pollution surveillance by IMO, in order to avoid setting unwelcome precedents for other sealanes.

V. MAIN TRENDS IN COOPERATION ON OCEAN AFFAIRS

47. The new era of international relations is clearly one devoted to substantial strengthening of cooperation across a wide range of issues, from confidence-building and collective security to economic stability and environmentally sustainable development, both at global and regional levels. It is also one of making effective linkages across a wide range of issues and interests. A number of organizations are thus in the process of redefining their mission to take account of the wider context, and many new cooperative arrangements have adopted more integrative approaches.

48. The results of UNCED should give much needed impetus to the development, at all levels, of more comprehensive and multidisciplinary approaches to the many interrelated aspects of sustainable marine and coastal development, including particularly control of land-based sources of marine pollution and hazardous waste management, conservation and management of marine living resources, conservation of biodiversity, control of and adaptation to climate change, and scientific cooperation for these purposes. Development and application of the concept of integrated management of marine and coastal areas, will thus require particular attention.

A. Strengthening regional and subregional cooperation

49. Agenda 21, as well as other major policy instruments, have emphasized that cooperation should focus on consultation and coordination within and between regions and subregions, and that the global organizations must strengthen their regional components and their relations with institutions

outside the system. An assessment of new opportunities for enhanced regional cooperation on ocean affairs would need to be considered in the context of a number of prevailing trends and influences, perhaps the most marked of which is the growing focus on regional economic integration and on regional strategic planning for development (see A/47/305-E/1992/96, annex).

50. It will be apparent that there is a surge of cooperative activity at the subregional level, with considerable impact on cooperation in ocean affairs. Examples include the new groupings, which extend from the Arctic and Baltic through the Central European Initiative and the Danube River Basin to the Balkans, Black Sea and Mediterranean, some of which have already produced new institutions, for example, the Council of the Baltic States. The opening of channels for cooperation in the South China Sea, and the expansion of the programme of the South African Development Coordination Conference to include the marine sector are also notable. Organizations like the South Pacific Forum, which already provide important cooperation in ocean affairs, are proceeding to strengthen coordinating mechanisms and to expand the scope of dialogue with development partners and with countries beyond the region. 31/ The recent restructuring of ESCAP has been prompted, inter alia, by the need to provide a more effective umbrella for expanding subregional cooperation.

51. There has also been some expansion of broad-based regional cooperation, either in geographic scope or in the linking of functions. The establishment of Indian Ocean Marine Affairs Cooperation (IOMAC), and the Ministerial Conference on Fisheries Cooperation among African States bordering the Atlantic Ocean are earlier examples. In Europe, the Conference on Security and Cooperation in Europe (CSCE) has now evolved a system of interregional cooperation among its main institutions. Both the CSCE and the European Community are expanding cooperation to the Mediterranean to include non-member States. 32/

52. Integration of regional marine programming in the United Nations system, particularly to reinforce programming on marine scientific research, environmental protection and living resource management, has seen some progress, mainly through the efforts of the Intergovernmental Oceanographic Commission (IOC) of UNESCO and the United Nations Environment Programme (UNEP). With the objective of establishing joint regional mechanisms for promoting development of marine pollution monitoring, assessment and control systems, the two organizations have decided to explore the possibility of integrating their regional bodies in those cases where the geographic boundaries are essentially common, as in the Caribbean, and to ensure harmonized activities among bodies in cases of mutual interest and geographic overlap, as in the West Pacific/East Asian Seas and western and central Indian Ocean. Emphasis is also placed on the need to maintain extraregional liaison with important scientific bodies, such as the North Pacific Marine Science Organization (PICES), the International Council for the Exploration of the Sea (ICES) for the North Atlantic and the Helsinki and Paris Commissions. 33/

53. Major new regional efforts, particularly in the Mediterranean Sea, the Baltic Sea and the Black Sea have been greatly facilitated by loans from the World Bank and the regional banks. An unprecedented arrangement has been made

in respect of the new Convention on the Protection of the Black Sea, where a major Global Environmental Facility (GEF) project will serve also as an interim institutional mechanism until the Commission, provided under the Convention, is established. 34/

54. A unique new form of cooperation is that which has emerged among small island developing States. Chapter 17 of Agenda 21 of UNCED devotes a separate programme area to those States, in recognition of their special circumstances and dependency on the marine environment and its resources. It calls for periodic regional and global meetings on their sustainable development, with a first global conference called for 1993 (A/CONF.151/26 (vol. II) and Corr.1, para. 17.130). That recognition by the international community owes much to the work of the Alliance of Small Island States (with a membership of 35 countries), which was originally formed to strengthen positions in the negotiations on the Framework Convention on Climate Change (A/AC.237/18 (Part II)/Add.1). Their special interests are consequently addressed in that Convention, and also in the Convention on Biological Diversity.

B. Integrated management of marine and coastal areas

55. Programme area A of chapter 17 of Agenda 21 represents the first time that integrated marine and coastal area planning and management has been elevated to the level of a global issue. Its relationship to the control of land-based sources of marine pollution, the conservation of biodiversity and adaptation to global climate change is recognized, as is the potential benefit of adopting ecosystem-based approaches to marine management. The importance of building databanks of environment and development information is given special attention. Agenda 21 recommends that States should cooperate in the preparation of national guidelines, and that a global conference should be held before 1994 to exchange experience in the field (para. 17.11).

56. At the national level, where the responsibility to plan and execute integrated management resides, it should be noted that, while more than 40 countries have established some kind of coastal zone management programme, few have actually reached the full implementation stage. Experience shows that such management is a highly complex process, entailing the use of various policy instruments, including economic instruments, and the introduction of special institutional arrangements. Most attribute the difficulties encountered to the general failure, with very few exceptions, to effectively incorporate the marine (and coastal) dimension into national development planning and thus command adequate political and financial support. That impediment is also experienced at the sectoral level, even with respect to such valuable economic assets as fisheries.

57. Several international organizations are seeking to create a central role for integrated marine and coastal zone management as a means of providing the necessary strategic focus for a wide variety of programmes and activities. Also, several new instruments, global and regional, cite integrated management as an important channel for effective implementation of their recommendations.

Particular attention is drawn to the most recent policy statement of UNEP, 35/ and to an extensive analytical report by OECD, 36/ which encompasses regional and wider aspects of certain management issues. The evolving UNEP policy places emphasis, particularly through regional cooperation, on prevention of environmental degradation caused by land-based activities, with special reference to small islands, and stress the role of sound environmental economics and natural resource accounting. IMO is now studying the impact of ports and port development on effective coastal zone management, account being taken of the competitive aspects of port development in a number of regions. 37/ Both the needs of aquaculture and its environmental impacts are being examined by the Food and Agriculture Organization of the United Nations (FAO), particularly in the context of coastal area planning and management. Now IOC is called upon to coordinate further international programmes on coastal zones so as to achieve a global and scientific-based approach to interdisciplinary coastal zone research, systematic observation and related capacity-building, in the service of national management responsibilities.

C. United Nations system arrangements for UNCED follow-up

58. The scope of and the interrelationships among marine and coastal issues are such that chapter 17 of Agenda 21 gives special attention to mechanisms for coordinating the different sectors of ocean affairs and for strengthening cooperation among States at all levels. The need is also stressed for global overview and regular General Assembly consideration of "general marine and coastal issues, including environment and development matters" (para. 17.117).

59. Arrangements to ensure a coordinated system-wide response to Agenda 21 as a whole are set forth in chapter 38 (A/CONF.151/26 (vol. III)). In accordance with its emphasis on efficiency, work-sharing and joint programming, the Administrative Committee on Coordination (ACC), through a special Task Force, has been called to prepare proposals to facilitate coordination between United Nations organs, organizations, programmes and the multilateral financial bodies. In order to ensure that a coherent and harmonized approach is taken to marine and coastal issues by the United Nations system, the main organizations concerned have presented a Joint Statement to the ACC Task Force on "Strengthening United Nations cooperation and coordination in ocean and coastal areas for implementation of Agenda 21". This was prepared by a special meeting (September 1992), co-chaired by the Director-General of UNESCO and the Secretary-General of the World Meteorological Organization (WMO). 38/ It concludes that a coordination and reporting mechanism solely devoted to ocean and coastal area concerns is required within the system, taking into account also general issues concerning effective implementation of the Convention on the Law of the Sea.

60. Not included in the Statement is the particular role that the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) could play in the implementation of chapter 17 of Agenda 21, being a unique advisory body which contributes to the adoption of coherent approaches to important

scientific issues. The future role and functions of GESAMP will be considered at a special meeting of its eight sponsoring agencies.

61. The continued strengthening of joint arrangements among the main agencies responsible for ocean activities should also be noted. The IOC-UNEP relationship is now extensive, leading the IOC Executive Council to urge UNEP, as well as the International Atomic Energy Agency (IAEA), to join the Inter-secretariat Committee on Scientific Programmes Relating to Oceanography (ICSPRO). The Global Investigation of Pollution in the Marine Environment (GIPME) Agreement is again being updated to draw not only on IOC and UNEP, but also on IAEA (through its Monaco Laboratory). In addition to the UNEP/WMO sponsorship of the Intergovernmental Panel on Climate Change, an expanding UNEP-IOC-WMO relationship focuses on climate-related studies. IMO has also expanded the scope of joint activity with UNEP and IOC. All concerned organizations, including the United Nations, are urging closer inter-agency cooperation on coastal area management. UNEP has now taken the initiative to consult with the World Bank, FAO and potential donor agencies on the development of guidelines, as called for in Agenda 21.

VI. MARINE ENVIRONMENTAL LAW AND POLICY

62. The Convention on the Law of the Sea provides the international legal basis for pursuing the protection and sustainable development of the marine and coastal environment and its resources. That role is stressed in the introduction to chapter 17 of Agenda 21.

63. The current year has seen numerous new international agreements, rules, standards and policy instruments, relating directly and indirectly to the marine environment, which, inter alia, serve to complement the Convention on the Law of the Sea and further develop its basic regime. It should be noted also that Agenda 21 has recognized the need to develop a centralized system to give ready access to information on legislation and provide advice on implementation of legal agreements on marine environmental and development issues (para. 17.117).

A. New conventions and policy instruments

64. Attention is drawn to the brief update of the 1989 report on the protection and preservation of the marine environment (A/44/461 and Corr.1) prepared for UNCED in 1992 (A/CONF.151/10), annex I of which gives a list of relevant international agreements with the number of parties, as of 31 December 1991. Since then, two major global conventions have been adopted, new regional agreements have been concluded, several existing agreements are undergoing major change, and a number of important policy decisions have been reached, at global and regional levels, including particularly those concerning land-based sources of marine pollution.

1. Climate change and biodiversity

65. The Framework Convention on Climate Change (Climate Convention) and the Convention on Biological Diversity (Convention on Biodiversity) may both be regarded as important complements to the Convention on the Law of the Sea in certain specific areas. The Climate Convention calls for financial and technological commitment to the promotion of sustainable management, and cooperation in the conservation and enhancement of sinks and reservoirs of greenhouse gases, including the oceans and coastal and marine ecosystems (art. 4); and for greatly strengthened international support for scientific research, data collection and systematic observation, including promotion of access to and exchange of data and analyses obtained from areas beyond national jurisdiction (art. 5). Discussions within IOC have stressed the possible need to conclude a protocol to the Climate Convention, directed, inter alia, at the development of a Global Ocean Observing System. 19/

66. The Convention on Biodiversity provides that it shall be implemented with respect to the marine environment consistent with "the rights and obligations of States under the law of the sea" (art. 22). The creation of marine-protected areas holds particular importance for marine environmental protection strategies and for the conservation of marine living resources; under the new Convention, each party will draw up its own list of protected areas, rather than establishing a global list as earlier proposed.

67. It should be noted that both Conventions give prominence to the role of appropriate coastal area management practices. The Climate Convention stresses their importance for adapting to the rise in sealevel; the biodiversity Convention would rely greatly on them for ensuring in situ conservation of species. Both the Biodiversity Convention and the new emphasis on integrated coastal management may also be expected to lend impetus to the implementation of the IMO Guidelines for the Designation of Special Areas and the Identification of Particularly Sensitive Sea Areas (IMO resolution A.720(17)) of 6 November 1991.

2. Land-based sources of marine pollution

68. Chapter 17 of Agenda 21 calls for major new efforts to strengthen modes of international cooperation on control of land-based sources of marine pollution. It calls specifically for the convening of an intergovernmental meeting by UNEP, as soon as practicable, and for States to cooperate, inter alia, on updating, strengthening and extending the Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-based Sources. As regards sewage concerns, Agenda 21 lists certain priority actions to be taken by States, such as: "(a) incorporating sewage concerns when formulating or reviewing coastal development plans, including human settlement plans"; and "(c) locating coastal outfalls so as to maintain an acceptable level of environmental quality and to avoid exposing shell fisheries, water intakes and bathing areas to pathogens" (para. 17.27).

69. There is every indication of a greater political willingness to proceed with the development of stronger mechanisms for combating pollution from land-based sources. The South Pacific Forum and others consider that "a global mechanism" should receive high priority by the international community. It should be noted, however, that there has been some disagreement as to whether international actions should be centred at the global or at the regional level, which has been the focus traditionally for most of the cooperative effort, and most recently in the Black Sea, the Baltic Sea and the Caribbean. The meeting of governmental experts in December 1991, convened by UNEP, produced a mix of national, regional and global recommendations: globally, the formulation of guidelines, building on the Montreal Guidelines; regionally, the adoption of binding agreements; nationally, the exercise of responsibility for enacting programmes and enforcing commitments. 40/

70. In practice, the problem of dealing with land-based sources will mean application and coordination of a broad range of legal and economic measures, particularly through integrated marine and coastal area management. 41/

71. In an effort to address more effectively marine pollution arising particularly from land-based sources, a growing number of conventions are extending their scope of application to the internal waters. The application of international rules to such waters is now made explicit in the revised Helsinki Convention (see para. 78 below), on protected areas and species (e.g. the 1990 Protocol to the Cartagena Convention), and on land-based sources (e.g. the 1974 Paris Convention, the 1980 Protocol to the Barcelona Convention, the 1983 Protocol to the Lima Convention, the 1990 Protocol to the Kuwait Convention, and the 1992 Protocol to the Black Sea Convention, mentioned in paragraph 77 below).

3. Ships' wastes

72. A condition for the implementation of the rules on special areas in annex I of MARPOL 73/78 is the existence of adequate port waste reception facilities. There has, however, long been a world-wide dearth of those facilities. Considerable improvements are feasible, as indicated by the amount of financial assistance now being directed at the development of such port facilities. IMO has pointed out that the reception of ships' wastes is not the most difficult problem, rather the challenge is in ensuring proper treatment and sound ultimate disposal of wastes, in the context of an integrated waste management system. It should also be noted that IMO has begun to develop a strategy on port interface, taking account of the requirements of coastal area management in general.

73. In July 1991, IMO adopted "International Guidelines for Preventing the Introduction of Unwanted Aquatic Organisms and Pathogens from Ship's Ballast Water and Sediment Discharges" (MEPC Res.50(31)), and will proceed to promote greater international cooperation on research and information exchange. Scientists believe that some of the recent outbreaks of toxic algal blooms and the establishment of exotic species are attributable to introduction through

ships' ballast water (see also para. 136 below). The incidents pose a threat to man (through the spread of pathogens), the aquaculture and fisheries industries, the tourist industry and the ecological system as a whole.

4. Main regional developments

(a) The Black Sea

74. Bulgaria, Georgia, Romania, the Russian Federation, Turkey, and Ukraine signed, on 21 April 1992 at the diplomatic Conference in Bucharest, the Convention on the Protection of the Black Sea against Pollution, three Protocols and four Resolutions. The Protocols are as follows: Protocol on protection of the Black Sea marine environment against pollution from land-based sources; Protocol on cooperation in combating pollution of the Black Sea marine environment by oil and other harmful substances in emergency situations, and Protocol on the protection of the Black Sea marine environment against pollution by dumping. The diplomatic Conference which adopted the Convention 42/ recognized that land-based sources were the main source of marine pollution in the region, and that the main route was through the more than 60 rivers and streams which carry many tons of toxic materials each year to the Black Sea. Since the success of the new Convention will depend greatly therefore on actions taken upstream, Resolution 2 adopted by the Conference provided for the establishment of cooperation with Danube States, stressing that the international obligation to protect and preserve the marine environment was not limited to coastal States. The Conference also adopted three Protocols on land-based sources, dumping and emergency cooperation, respectively, as integral parts of the Convention.

75. While the Convention itself does not embrace internal waters, it requires parties to bear in mind the adverse effects of pollution within internal waters on the marine environment, and allows its protocols to have a different area of application, as in the case of the Protocol on land-based sources. While there is no direct reference to the Convention on the Law of the Sea, article XXIV of the Black Sea Convention provides that nothing in the Convention shall affect in any way the sovereignty of States over the territorial sea, sovereign rights and jurisdiction in the exclusive economic zone and on the continental shelf, and the exercise by ships and aircraft of navigational rights and freedoms, "as provided for in international law and as reflected in relevant international instruments".

76. The Convention calls for regional solidarity, in that it requires parties to cooperate in promoting "within international organizations found to be competent by them" the elaboration of measures contributing to the protection of the Black Sea. Vessels are defined as seaborne craft of any type, and joint action with respect to vessel-source pollution is contemplated, as long as it accords with international rules and standards. Harmful substances are defined as any hazardous, noxious or other substance, the introduction of which would result in pollution or adversely affect the biological processes due to toxicity and/or persistence and/or bioaccumulative characteristics. A

provision on marine living resources requires that anti-pollution measures pay particular attention to the avoidance of harm to marine life. This is echoed in the Protocol on land-based sources, where discharge permits must take account of potential effects on marine ecosystems, particularly living resources, endangered species and critical habitats.

77. The Protocol on land-based sources specifically incorporates atmospheric sources. It contemplates common emission standards for direct discharges, with particular attention to water discharged from municipal sewage. The Protocol on combating pollution from oil and other harmful substances covers emergencies arising from the accumulation of small discharges as well as from single accidents. The Protocol on dumping prohibits the issue of permits to States from outside the region, and prohibits dumping of all types of radioactive substances and wastes. It should be noted that, since the adoption of the Convention and related Protocols, IAEA has identified an urgent need for intensive investigation of radioactivity in the Black Sea.

(b) The Baltic Sea

78. The new Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki, 9 April 1992), to replace the 1974 Convention, has embodied "developments in international environmental policy and environmental law ... to extend, strengthen and modernize" the existing legal regime for the Baltic Sea (Preamble). 43/ The Convention was prompted by findings that pollution from sewage, agriculture, and industrial runoff has left many areas of the Baltic Sea biologically dead. The new Convention strengthens in several ways the Baltic Sea agreement of 1974. New provisions cover the use of "best of available technology", "best environment practice", and the precautionary principle. The Convention has extended its scope to all coastal waters and catchment areas, which previously were exempt. As in the case also of the new instrument for the Black Sea, it defines pollution from land-based sources as including also atmospheric sources, and seeks to extend cooperation as far upstream as possible. It updates the definition of dumping to include specifically disposal into the seabed, and prohibits all dumping except for dredged material. It emphasizes protection of marine and coastal ecosystems and the effects of pollution on living resources; for example, it modifies the definition of marine pollution by referring to "harm to living resources and marine ecosystems" and "hindrance to legitimate uses of the sea including fishing" (art. 2). A greatly strengthened Action Plan was also adopted; a financing conference, to be held in 1993, will involve the World Bank and the regional banks.

(c) The North-East Atlantic

79. In September 1992, 14 European countries and the European Economic Community (EEC) agreed to replace the 1972 Oslo Convention for the Prevention of Marine Pollution by Dumping from ships and aircraft and the 1974 Paris Convention for the Prevention of Marine Pollution from Land-based Sources with a new Convention for the Protection of the Marine Environment of the North-East Atlantic, and to merge the Oslo and Paris Commissions. 44/ Under

the new Convention, States have agreed to eliminate all discharges of dangerous substances such as PCBs. No timetable has been established, but the commitment has been made that, by the year 2000, discharges will be reduced to levels that are not harmful.

80. At the Conference to adopt the Convention, certain difficulties were encountered over the issue of ocean dumping of low-level radioactive waste and bulky radioactive materials, such as parts of decommissioned nuclear submarines and power stations, problems which both France and the United Kingdom face (see also sect. B below). Under the compromise achieved, a 15-year moratorium is imposed, after which permission to dump would require proof that no better alternative could be found. If no such proposal is made, the moratorium will be extended for a further 10 years. The particular problems of the United Kingdom and France have been accommodated in that they will retain the right to dump low- and intermediate-level waste after the year 2007, but must continue to study land-based alternatives and report on the results every two years, beginning in 1997.

(d) The Wadden Sea

81. The Ministerial Declaration of 13 November 1991 of the three Wadden Sea States 45/ (Denmark, Germany and the Netherlands) holds special importance for its establishment of a coherent special conservation area covered by a coordinated management plan, which entails restrictions on the development of ports and industrial facilities, offshore oil and gas, and fishing; reduction of total contaminant inputs from all sources; and harmonization of scientific research and monitoring, including establishment of reference areas in which activities are banned. It is also notable for its formulation of such principles as: the principle of careful decision-making; the principle of avoidance; the precautionary principle; the principle of translocation (that is, to relocate harmful activities to areas where they will have less impact); the principle of compensation (that is, harmful effects that cannot be avoided must be balanced by compensatory measures); the principle of restoration; and the principles of best available technology and best environmental practice.

(e) The Mediterranean

82. A new protocol is being prepared on the prevention of pollution from offshore petroleum and mineral development for the Mediterranean Sea. This is only the second such specialized agreement, the first being the Protocol of 29 March 1989 to the Kuwait Convention. The protocol, when adopted, will make an important contribution to regional cooperation, since it calls for specific measures for the protection of special areas and mutual assistance in cases of emergency, and lays the foundation for transfer of technology from North to South.

B. Ocean dumping and related developments

1. Dumping of military and nuclear wastes

83. The recent revelations as to the extent of nuclear dumping and other munitions disposal in European waters, heightening concerns as to the age and quality of many nuclear plants, and the mounting size of waste stockpiles, including the growing number of decommissioned nuclear submarines, are all pointing to a new need for international cooperation on nuclear and related issues. 46/

84. The need for an international convention on nuclear safety and for preparatory work to begin as soon as possible, has been affirmed by the IAEA Board of Governors (February 1992) and by the Helsinki Summit of the Conference on Security and Cooperation in Europe held on 9 and 10 July 1992 (A/47/361-S/24370, annex, decision VIII, para. (7)). The IAEA General Conference is presently considering the preparation of the possible elements for a convention.

85. The issue of military dumping is addressed in the draft Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (adopted by the Conference on Disarmament on 3 September 1992). 47/ It excludes from its notification provisions those weapons dumped at sea before 1 January 1985; however, its "Verification Annex" prohibits future destruction through dumping at sea (and in any other body of water). 48/

86. Questions concerning the transport of radioactive materials now centre on the need for a legally binding instrument on the international movement of radioactive wastes, further to the IAEA Code of Practice on the International Transboundary Movement of Radioactive Waste, 49/ and for new international rules and standards for maritime transport of all radioactive materials. On the latter, a Joint IAEA/IMO Group on the Carriage of Irradiated Nuclear Fuel by Sea has been formed, with terms of reference, as presently proposed by IMO, which will call for study of the adequacy of existing provisions for safe transport and for consideration of possible special needs, both for nuclear fuel and for other radioactive materials, in the context of maritime transport. 50/

87. The issue of ocean disposal of radioactive wastes now focuses on the question of whether or not to amend the 1972 London Dumping Convention to convert the long-standing moratorium on low-level radioactive waste disposal into a permanent prohibition. Governments also faced this same question at the Conference to adopt the new Convention for the North-East Atlantic (see para. 79). A proposal was before the 15th Meeting of Consultative Parties (November 1992) to convene an amendment Conference to ban permanently the disposal of low-level radioactive wastes into sub-seabed repositories accessed from the sea, incineration of all noxious liquid wastes, dumping of industrial wastes and export of hazardous wastes for the purpose of dumping. Also proposed is the adoption of the precautionary approach as the guiding principle for the implementation of the Convention. 51/

2. Transport of toxic and hazardous wastes

88. The 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal came into force on 5 May 1992, and the number of regional agreements, the first of which is the 1991 Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, is increasing. The drafting of such agreements is well advanced in the Caribbean, the South-East Pacific and the Mediterranean.

89. Black Sea States now plan to conclude an agreement to ensure cooperation in combating illegal traffic; and the South Pacific Forum has forwarded a proposed draft Convention to the South Pacific Regional Environment Programme (SPREP) for technical evaluation and comment. Other forums, for example, the Islamic Conference (A/46/486-S/23055, annex II, resolution No. 7/20-E) are urging a total ban on all illegal transboundary movement of dangerous and toxic wastes, defined as meaning transported without the necessary safeguards and prior consent.

90. The issue of transboundary waste movement is but one component of the growing problem of toxic chemicals and hazardous wastes (the bulk of which are chemical), where most chemicals have not been adequately tested to determine toxicity. Another facet of the problem is the need to coordinate the rapidly growing volume of international regulation on dangerous goods, toxic chemicals and hazardous substances. IMO, which has done extensive work over the years on the classification of harmful substances, 52/ has expressed strong concerns and, in Assembly resolution A.716(17), urged all the international bodies involved to coordinate their efforts to ensure the compatibility of new legislation with established international transport rules and regulations.

C. Strengthening and integrating regimes for maritime safety and pollution prevention

91. For several years now, IMO has concentrated much of its effort on interrelating and strengthening its various conventions and other instruments on maritime safety and pollution prevention so that they can serve this dual purpose. An increasingly important feature of IMO work is also the growing cooperation between government and industry, at regional and global levels, and particularly with respect to prevention and cooperation in combating pollution. That same interaction was also evident at the Economic and Social Commission for Asia and the Pacific (ESCAP) regional seminar held in May 1992 on the removal and disposal of obsolete offshore platforms, where participants came from Governments, six State petroleum companies, and as many as 17 oil companies.

92. IMO places considerable emphasis on the newly revised Guidelines on Management for the Safe Operation of Ships and for Pollution Prevention (Assembly resolution A.680(17)), which set forth the responsibilities of companies operating ships, emphasizing that companies should adopt and

implement strict policies on safety and environmental protection. Within the shipping industry itself there is new attention to the need for greater coordination among its various sectors dealing with marine pollution and for sharing of responsibility among shipowners, shippers, cargo-owners and others.

93. It may be noted that there is a provision in UNCED Agenda 21 that calls for international assessment of the state of marine pollution in "areas of congested shipping, such as heavily used international straits with a view to ensuring compliance with generally accepted international regulations, particularly those related to illegal discharges from ships, in accordance with the provisions of Part III of the United Nations Convention on the Law of the Sea" (para. 17.31). 53/ That recommendation is particularly pertinent to the Malacca/Singapore Straits. Malaysia has since called for equitable sharing of the operational and financial responsibility among maritime nations, users of the straits and the littoral States. 54/ In addition to other problems posed by heavy international traffic, rising offshore production in South-East Asia is also increasing the risk of accidents. Prospects for a regional contingency plan, drawing also upon existing industry arrangements, have been enhanced by the development of an ASEAN Oil Spill Action Plan. 55/

1. Port-State control

94. Port-State control is increasingly relied upon for effective implementation of IMO Conventions and other instruments and as a means of monitoring compliance (see A/46/724, paras. 80-85). An increasing number of instruments now contain new provisions on port-State inspections, so that the original "Procedures for the Control of Ships" (IMO resolution A.466 (XII)) will now undergo amendment to reflect fully the current state of affairs. 56/ Developments in this area also affect the work of the new Joint MSC/MEPC Working Group on Flag State Compliance, which is attempting to define its monitoring functions, bearing in mind the various ways in which countries themselves monitor shipping operations.

95. The emerging trend towards regional cooperation in port-State control of ships and discharges is recognized and encouraged by IMO, most recently through the adoption of Assembly resolution A.682(17). Such cooperation is well established in Europe among 14 maritime authorities. The first steps have now been taken in the Asia-Pacific region: a preparatory meeting on regional cooperation on port-State control, held in Tokyo in February 1992, will be followed by a second meeting in the near future.

2. The question of mandatory ship reporting

96. Several recent incidents of near-grounding of vessels have strengthened arguments for introducing some form of mandatory reporting for ships. The growing need for increasing safety of navigation and pollution prevention had brought the question of ship reporting systems and Vessel Traffic System, in

which mandatory participation might be desirable, to the attention of the Subcommittee on Safety of Navigation of IMO. This matter required consideration of a number of factors: the procedures and criteria needed to determine ship reporting systems; the legal basis; the classes of ships involved; the services that would have to be provided by the port or coastal State concerned; possible needs for consequential adjustments of conventions and resolutions; and the areas in which ship reporting should be made mandatory on a case-by-case basis. 57/

97. There was a suggestion to introduce compulsory reporting systems "in areas to be avoided"; others expressed the view that the obligation to report should be extended to all ships entering the area of competence of inshore vessel traffic service. The view was put forward, however, that, under certain circumstances, it should be necessary to have mandatory reporting schemes in international waters for ships carrying harmful cargoes where they are in environmentally vulnerable areas.

98. Because of concern with respect to the legal aspects of a mandatory ship reporting system, a request was made to the Legal Committee of IMO to provide answers to a series of questions on the extent to which port States or coastal States have the right to require a foreign-flag ship to identify itself and report to the authorities of those States.

99. The legal services of EEC have reported their opinion to the IMO Subcommittee that mandatory reporting is (i) in conformity with international law when it is limited to ships entering the territorial or internal waters of a Member State, and (ii) is compatible with the principle of the Convention on the Law of the Sea as a condition applying to ships entering the 200-mile zone and bound for a port of a Member State or for its internal waters, provided that these measures are notified to IMO and published. However, the application of mandatory reporting to transiting ships exercising innocent passage and not bound for a national port, would require the prior establishment of international rules or standards through IMO or a general diplomatic conference. 58/

100. The legal questions raised by the mandatory ship reporting system were examined by the Legal Committee at its 67th meeting in September 1992. It was generally agreed that IMO was the only competent international organization to deal with the matter. Some divergence emerged, however, on the procedure to be followed: some delegations considered that a new convention should be negotiated; others thought that it would be sufficient to amend existing conventions such as SOLAS, COLREGS or MARPOL, recognizing that the existing rules of international law dealing with traditional uses of the sea, as reflected in the Convention on the Law of the Sea, were sufficient. Further discussion is scheduled to take place before the end of the year to enable delegations to present additional observations at a special meeting of the Legal Committee. 59/

VII. CONSERVATION AND MANAGEMENT OF MARINE LIVING RESOURCES

101. It is important to note the rapid response of the international community to serious conservation issues with respect to marine living resources, and the degree of cooperation and political will that has been demonstrated in the process. This has been evident at the global level, in the General Assembly, in the context of UNCED and in the FAO Committee of Fisheries and the Council. Regionally, there has also been substantial cooperation on strengthening conservation measures.

A. World fisheries situation

102. FAO continues to stress that the most important issue for the future is the strongly increasing demand for fish in a situation where the major fisheries are over-fished. Fisheries management is presented with increasingly complex challenges: it must encompass the biological, ecological, economic and social aspects; in many developing countries, it must command a higher political and financial priority; and many more issues have to be dealt with as a matter of regional or subregional cooperation.

103. Recommendations made by the Secretary-General in the recent report on cooperation in fisheries in Africa (A/47/279 and Corr.1) have a wide application. Collaboration among existing regional fishery bodies must be reinforced, with a greater reliance on subregional approaches for compilation and dissemination of statistics, resource evaluation, management and other issues, which should encompass stocks, socio-economic activities and ecosystems. In the process, more subregional and regional expert exchange should be used. Both applied and strategic research programmes are needed to improve capabilities, particularly to address severe problems of excess fishing capacity. Greater efforts are needed to quantify the value of fisheries, ensure comparative analysis of fisheries and aquaculture, use more export earnings for fish imports and improve small-scale fishing. Aid organizations should be devoting more attention to fisheries management and market development, and giving higher priority to regional technical assistance projects which facilitate pooling. To strengthen regional cooperation on foreign fishing, FAO urges the preparation of agreements and definition of a common position in GATT and EEC/ACP arrangements. While more coordination between economic groupings and fishery bodies is urged, FAO has also warned that the growing interest of regional economic integration groupings in fisheries can create a considerable risk of duplication and dilution of effort. Those groupings rarely correspond with natural management areas and activities are often dispersed within the broader development scope.

104. There appears to be a growing trend around the world that argues for the allocation of territorial use rights, especially for small-scale fishermen, who suffer encroachment from industrial vessels entering the shallower waters. Similarly, the system of individual transferable quotas (ITQs), which has been successfully introduced in several countries, is gaining considerable interest.

B. Policy developments at the global level

105. In 1991, it was concluded that the elaboration of the law of the sea regime for the rational management and conservation of high-seas living resources had been firmly inscribed on the international agenda (A/46/724, paras. 127-133). Thus, chapter 17 of Agenda 21, in the Programme Area on "Sustainable use and conservation of marine living resources of the high seas", provides that:

> "States should convene, as soon as possible, an intergovernmental conference under United Nations auspices, taking into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The conference, drawing, inter alia, on scientific and technical studies by FAO, should identify and assess existing problems related to the conservation and management of such fish stocks, and consider means of improving cooperation on fisheries among States, and formulate appropriate recommendations. The work and the results of the conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea, in particular the rights and obligations of coastal States and States fishing on the high seas" (para. 17.49 (e)).

Other recommended activities on high seas fisheries call for action by flag States on the minimization of incidental catch, on monitoring and control to ensure compliance, and on action to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas (paras. 17.50 to 17.53). The question of straddling stocks and highly migratory species is also mentioned under the Programme on "Sustainable use and conservation of marine living resources under national jurisdiction", where States are called upon "in implementing the provisions of the United Nations Convention on the Law of the Sea" to address the issues of such stock and species (para. 17.78). It should be noted that the formulations of the particular paragraphs dealing with those issues were the subject of intensive negotiations in the Preparatory Committee and in UNCED itself.

106. Various forums, before and since the adoption of Agenda 21, have essentially endorsed the need to strengthen, through intergovernmental consultation and negotiation, the implementation of the law of the sea regime for high seas fisheries with particular attention to straddling stocks and highly migratory species. 60/ Emphasis in many instances has been placed on the need for political will rather than new or more complete information in order to be able to achieve sustainable fisheries development.

107. Various international developments have contributed to this recommendation of UNCED, beginning essentially in 1989 with the call to States by the General Assembly to "strengthen their cooperation in the conservation of marine living resources, including the prevention of the use of fishing

methods and practices that can have an adverse impact on the conservation and management of marine living resources" (resolution 44/26, para. 18). 61/ The General Assembly has continued to call attention to this issue in subsequent resolutions on the law of the sea and, in 1991, the Secretary-General convened a special expert group to consider the legal, institutional and policy aspects of high seas fisheries, on the basis of which the Division has prepared a publication. 62/ At the same time, FAO has pursued all aspects of the question which essentially concern the development of international guidelines on responsible fishing, its most recent meeting being the Technical Consultation on High Seas Fisheries held in Rome in September 1992. There is consequently cooperation and coordination between the FAO Fisheries Division and the United Nations Division for Ocean Affairs and the Law of the Sea.

108. The proposed conference comes at a time when considerable effort is being devoted to building a broad-based understanding of the problems besetting world fisheries and their manifestations at the global level, at regional and subregional levels, and at the national level. In the process, basic questions are being asked as to the potential for further development of fisheries, with some experts maintaining that the upper limit has already been reached, and others holding that current knowledge of world ocean bioproductivity, taking account of well-founded conservation measures and rational utilization, would allow a much more optimistic view. Close attention is being paid to the considerable variations in situations in different regions, as well as to the basic components of rational management. Ecosystem-based approaches to management now command strong interest, so that the development of multispecies biological models, combined with environmental factors, assumes new importance.

109. The proposed conference will come at a time of widespread acknowledgement of the need to strengthen regional and subregional cooperation (not limited to high seas fisheries) in order to provide mechanisms for independent monitoring, to adopt measures that would be compulsory for all resource users, and to set up confidence measures, including mutual inspection of fishing activities of national fleets. Certain recent developments, including the 1992 Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (see para. 116 below) and the draft Agreement for the Establishment of the Indian Ocean Tuna Commission (see para. 124 below) can be expected to have a bearing on the consideration of general legal and institutional needs. The need for further elaboration of the concept of "responsible fishing" is also indicated.

110. The International Conference on Responsible Fishing, held from 6 to 8 May 1992, adopted the Cancun Declaration, which emphasized the vital need for fishing to continue and develop within a comprehensive and balanced system under the concept of responsible fishing (A/CONF.151/15, annex). It presented a comprehensive concept of responsible fishing as encompassing sustainable utilization of fisheries resources in harmony with the environment; the use of practices not harmful to ecosystems, resources or their quality; the incorporation of added value to fish products processed according to required standards; and the conduct of commercial practices providing high quality

products. It thus encompasses both biological and economic aspects. It emphasizes that the most important objective of sound management, an essential part of the practice of responsible fishing, is to apply policies and measures which "result in a level of fishing effort commensurate with the sustainable utilization of fisheries resources, taking into account the specific characteristics of particular fisheries". The objective of responsible fishing would apply equally to the exclusive economic zone and to the high seas. It was also agreed to promote, within the legal framework provided by the Convention on the Law of the Sea, effective international cooperation towards the achievement of rational and sustainable management and conservation of the living resources of the high seas.

111. The Declaration includes a number of proposals similar to those made in Agenda 21, and calls upon FAO to draft an International Code of Conduct for Responsible Fishing, in consultation with relevant international organizations. It recommends to the United Nations that it should declare a Decade of Responsible Fishing.

112. The FAO Technical Consultations on High Seas Fisheries was held in Rome from 7 to 15 September 1992. The overall objective of the Consultation was to obtain technical information to be used for the proper management of high seas fisheries. The Consultation agreed on the need for accurate and complete statistical reporting on fisheries in all waters, particularly on high seas fisheries, both for monitoring and evaluating high seas catches and as an essential instrument for research and fisheries management. Such reporting should include data on catches of targeted species and discards by area and by gear. The Consultations acknowledged that some of the information required for stock assessment purposes might be confidential. It was therefore necessary to protect such data in order to ensure the cooperation of the fishing industry.

113. With regard to the scope of application of a code of conduct on responsible fishing, it was suggested that responsible practices should be followed in all fisheries. Reservation was expressed that such a code of conduct should apply only to the high seas. The Consultations acknowledged that, with due regard to the rights and obligations of States under the Convention on the Law of the Sea, a code of conduct might apply in all fisheries and might constitute a tool to help States to ensure better fishing practices.

114. The Consultations agreed that there was a need for urgent action to address the problem of reflagging of fishing vessels as a means of avoiding compliance with applicable conservation and management measures for fishing activities on the high seas. It recognized the need for an international framework, where appropriate, on a regional basis, to deter effectively reflagging.

115. The Consultations also agreed that the management of high seas fisheries shall be undertaken within the framework of the Convention on the Law of the Sea by international fishing bodies. Agreement was also reached on the

necessity for regional fisheries bodies to provide the institutional mechanism necessary to achieve effective high seas fisheries management. However, the idea of setting up an international high seas fisheries management authority to enhance the efficiency of fishing bodies did not receive any support.

C. Regional agreements and other developments

1. The North Pacific

116. On 11 February 1992, Canada, Japan, the Russian Federation and the United States of America signed in Moscow the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean. The Convention prohibits "directed fishing for anadromous fish", in the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North latitude beyond the 200-mile limit (art. III). This treaty in effect recognizes that fisheries for anadromous stocks should be conducted only in waters within 200 nautical miles of the baselines from which the breadth of the territorial sea is measured.

117. Once in force, that Convention will establish an international organization to promote the conservation of Pacific anadromous species throughout their migratory range in the high seas area of the North Pacific Ocean and its adjacent seas, as well as ecologically related species, including various marine mammals, seabirds and non-anadromous fish species. The new organization, which will be known as the North Pacific Anadromous Fish Commission, will also serve as a needed venue for consultation and coordination of high seas fishery enforcement activities by the contracting parties.

118. The new Convention is also of interest because of the possible precedents it might create for the definition of "directed fishing", "incidental taking" and "ecologically related species" and the relationship among the three. "Incidental taking" is defined as catching, taking or harvesting a species or stock of fish while conducting directed fishing for another species or stock, and is to be minimized to "insignificant levels" in accordance with annex II to the Convention. Retention on board is prohibited.

119. The influence of an ecosystem approach is apparent in this Convention. "Ecologically related species" are defined as living marine resources associated with anadromous stocks found in the Convention area, including but not restricted to both predators and prey. They shall be included within the scope of scientific information and advice and shall be the subject also of recommended measures by the Commission. For the purposes of scientific research, the Convention provides that its area of application may extend further south (in areas beyond 200 miles). Also, the Commission may request information from parties on areas adjacent to the Convention area from which anadromous stocks migrate.

120. The new Convention contains an elaborate provision on enforcement (art. V), which is of considerable significance for the implementation of

provisions of the Convention on the Law of the Sea dealing with high seas fisheries. It permits parties to board vessels of other parties to inspect and question and, in the case of a violation, to arrest or seize the vessel and hold it within the Convention area or most convenient port. Parties may take such actions as necessary to avoid repeated violations, for example, placement of enforcement officials on board vessels, exclusion from the area or restrictions as to where a vessel might operate. Penalties imposed by the flag State are to be commensurate with the nature of the infraction, and take account of proposals made by the North Pacific Anadromous Fish Commission. Furthermore, parties are to exchange information on enforcement action and on the disposition of cases.

121. It was reported that, on 14 August 1992, six countries (China, Japan, Poland, the Republic of Korea, the Russian Federation and the United States of America) agreed to a two-year "self-abstention" policy, beginning in 1993, under which there would be a ban on the fishing of pollack and associated stocks in the "Doughnut Hole" of the central Bering Sea.

2. South Pacific

122. The Final Communiqué of the 1992 South Pacific Forum has underlined the importance of cooperation on and coordination of maritime surveillance for the enforcement of fisheries regulations. 63/ The determination of the Pacific Island States to expand their cooperation is clearly illustrated by the adoption of the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region (9 July 1992), which will also provide the umbrella for detailed subsidiary agreements.

123. The Niue Treaty is based on article 73 of the Convention on the Law of the Sea, and addresses primarily cooperation in the implementation of harmonized minimum terms and conditions of access, exchange of information, surveillance and enforcement, prosecutions and enforcement of penalties. With respect to harmonized access, fishing licences will only be issued to those foreign vessels which are in good standing on the Regional Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency; Parties have also to ensure that, in their access agreements, flag States assume responsibility for compliance also with the laws and regulations of the coastal State. Information exchange will cover such matters as location and movement of foreign fishing vessels, as well as law enforcement activities. To facilitate reciprocal and joint surveillance arrangements, the Convention includes annexes with details on the use of special identification cards, markings and a Forum Fisheries Agency flag.

3. The Indian Ocean

124. The draft Agreement for the Establishment of the Indian Ocean Tuna Commission, which awaits formal approval by the FAO Council, is the first example of an agreement concluded under article 64 of the Convention on the

Law of the Sea. Its preamble cites articles 56 and 64, and articles 116 to 119 of the Convention, and the consequent functions and responsibilities of the Commission are based on the "principles expressed in the relevant provisions" of the Convention. The area of application is the Indian Ocean defined as being FAO statistical areas 51 and 57 and the adjacent seas in so far as necessary for the purpose of conserving and managing stocks that migrate into or out of the Indian Ocean. The Commission is empowered to adopt conservation and management measures binding on all members that do not object within a specified period. In keeping with recent trends in fisheries development and management, the Commission's functions will also encompass economic and social aspects.

125. The initiative for setting up an Indian Ocean Tuna Commission dates back to 1986, when the first sharp rises in fishing efforts were observed. The development of the draft Agreement has also led to notable changes within FAO itself. The negotiations contributed to the eventual decision to amend the FAO Constitution to permit regional economic integration organizations, in particular the EEC, to become members of FAO. They led also to a revision of the principles and procedures governing FAO regional fishery agreements (art. XIV of the Constitution) to allow them greater autonomy.

4. East Atlantic

126. As indicated in the recent report on cooperation in fisheries in Africa, there is a considerable strengthening of activities and cooperation among the international organizations concerned, particularly FAO, the Economic Commission for Africa (ECA) and EEC. FAO and ECA are working jointly on new approaches to aquaculture development. In West Africa, where the EEC has 14 agreements in force, it has started a regional programme to attack the problem of post-harvest wastage, estimated at well over 10 per cent of catch. FAO is doing in-depth studies on the constraints and opportunities facing the industrial fishery sector in West Africa, covering the financial aspects of both industrial fleets and local vessel operations, the role of subsidies and the economic return on fishing agreements. These will be followed by studies on the economics of foreign fleet operations, including comparative analysis of government support through subsidies and financial bonuses, the economics of joint ventures etc.

127. The number of agreements between coastal countries continues to increase and most of the agreements provide for reciprocal access rights between neighbours (for example, Nigeria and Ghana). While the number of agreements with foreign interests is steadily decreasing, their financial and material importance has increased notably.

5. The Common Fisheries Policy of EEC

128. There has been a wide-ranging debate on the Common Fisheries Policy, which has already undergone considerable changes in response to the establishment of exclusive economic zones, major changes to conditions of access to resources, successive enlargements of the European Economic Community, declining resources etc. The Community is now in the process of enacting major reforms to its Common Fisheries Policy to ensure the sustainability of the fishing industry during the period 1993-2002. Above all, this will entail a rebalancing of fishing effort and capacity against resources, together with measures to minimize socio-economic upheaval. A special report by the Commission, completed in 1991, advocates integration of the various facets of the Policy and adjustment and reinforcement of existing instruments to arrive at a balanced overall system of management. 64/ In June, the Fisheries Council completed its review of proposed reforms aimed at ensuring a viable, but streamlined industry; the next step will be for the Commission to draft new regulations for the Council of Ministers.

129. Considerable progress has also been made with respect to the planned establishment of a common Community system for Mediterranean fisheries and the elaboration of an overall policy for cooperation among all Mediterranean States in order to manage resources in a rational manner. Under discussion is the convening of an international conference on Mediterranean fisheries involving the 18 Mediterranean States and other countries that fish in the region.

130. Important changes in the implementation of the Common Fisheries Policy can be expected as a result of an extensive review conducted by the Commission. 65/ Community control measures, in particular the obligation to record catches, applies to all stocks subject to quantity restrictions, without regard to where the catch is made, including in international waters and in third country waters. At present, inspections are the responsibility of member States, subject only to checks by the Commission, except for the Northwest Atlantic Fisheries Organization (NAFO) and Antarctic areas where Commission inspectors are entrusted with monitoring fishing directly. 66/

131. The Commission's review has revealed very poor compliance with total allowable catches and quotas and with technical conservation measures, affecting all sectors and not just certain stocks or regions. The Commission is recommending much wider use of sanctions on overfishing and substantial increases in the size of penalties. 67/

132. In commenting on the lack of coordination between the various inspection bodies, the report points out that members have not made use of the provisions on hot pursuit in the Convention on the Law of the Sea, whether against their own vessels, those of other members or those of non-members. It therefore recommends that the right of hot pursuit should be fully exploited and organized, irrespective of the flag of the vessel.

VIII. MARINE SCIENTIFIC RESEARCH

133. Chapter 35 of Agenda 21 of UNCED is devoted to science for sustainable development. It points to the critical need to have a more accurate estimate of the carrying capacity of the planet and of its resilience under the many stresses placed upon it by human activities, and to the reliance on science to provide that understanding through improved networks of ground observations and the application of modern tools such as remote-sensing devices, automatic monitoring instruments and computing and modelling capabilities. Chapter 35 also stresses that good management must hold open a range of options to ensure flexibility in responding to the uncertainties inherent in environmental change, and that such flexibility depends also on scientific input. Such statements have particular meaning for the oceans. Moreover, Chapter 17 of Agenda 21 is again unique in that it contains a separate Programme Area to deal directly with the considerable scientific uncertainties and the important challenges for international cooperation on marine sciences and services.

A. Assessing the state of marine and coastal environments

134. An increasing number of conventions and policy instruments, including Agenda 21, require a periodic assessment of the state of the marine environment, globally and regionally. In the past, global assessments have been prepared by GESAMP, each representing nearly 10 years of effort by the marine scientific community at large, and involving a series of regional investigations and assessments. GESAMP sponsoring agencies are presently considering how best to pursue this work in the future, bearing in mind the various needs at the national, regional and global levels.

135. In considering this problem at its last session, GESAMP stressed that there are as yet few accepted indicators to make such assessments at the level of ecosystems, and that this is an increasingly important management requirement, both for marine environmental protection and living resource conservation and management. 68/ Ecosystems incorporate physical, chemical and biological properties which operate as an integrated whole, so that physical and chemical indicators alone may not detect changes caused by natural or anthropogenic factors. The Group is thus exploring the more complex task of establishing the biological indicators.

136. A relatively new area for broad-based investigation is the continuing occurrence of harmful algal blooms in many areas, for example, the Seto Inland Sea of Japan, the Mediterranean, the Baltic and Black Seas, Gulf of Thailand and bays in the Republic of Korea. It is generally expected that, in populated coastal zones, the continued increase in nutrient inputs will sooner or later lead to the appearance of harmful algal blooms, but there is as yet no adequate and objective monitoring system to establish the fact of change unambiguously. Scientists are thus seeking to understand the interplay between different planktonic species and their changing environment in order to ensure that countermeasures are relevant and effective. 69/

137. There is also evidence of new types of intrusions into bodies of water like the brackish waters of the Baltic and Black Sea, thus emphasizing the need to pursue international research into the artificial transfer and migration of the estuarine organisms involved. It is estimated that hundreds of introduced species have arrived in those seas in ship's ballast water, attached to hulls or living in the sediment at the bottom of ships' tanks. Since the saline waters of the open ocean would destroy such organisms, mid-ocean reballasting would greatly reduce the unintentional introduction of species into enclosed brackish seas. But more scientific evidence will be needed to institute measures which would also have safety implications; in the meantime, the Guidelines adopted by IMO (see para. 73) recommend several options.

B. Observing the world ocean

138. Vandalism and theft of expensive equipment deployed in international waters for climate study purposes has served to underline persistent questions as to the legal status of ocean data acquisition systems (ODAS), whether drifting or moored, surface or sub-surface instrumentation (see also A/46/724, paras. 139-142). The Executive Council of IOC has stated that the provisions of the Convention on the Law of the Sea (arts. 258 to 262) will be insufficient for the development of the Global Ocean Observing System, given its dependence on the use of a large amount of automated equipment. The Council has also requested IOC to explore with IMO and the International Hydrographic Organization the kind of notification to mariners that should be made every time moored or drifting equipment is deployed at sea.

C. The role of IOC

139. A study of IOC development, operations, structure and statutes (DOSS) is being undertaken for the next IOC Assembly. The study group on DOSS is giving particular attention to the follow-up to UNCED, the implications of the new conventions on climate change and biodiversity, and the eventual entry into force of the Convention on the Law of the Sea. 70/ The IOC Executive Council has already emphasized the special status of IOC as a "competent international organization" under the Convention, including its role with respect to the Commission on the Limits of the Continental Shelf (annex II, art. 3) and in settlement of disputes (annex VIII, art. 2).

IX. THE PREPARATORY COMMISSION FOR THE INTERNATIONAL SEABED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

140. The Preparatory Commission met twice during 1992. The tenth session was held at Kingston from 24 February to 13 March 1992 and a summer meeting in New York from 10 to 21 August 1992. It was decided to hold the eleventh session of the Preparatory Commission at Kingston from 22 March to

2 April 1993 to consider the provisional final reports of the Special Commissions and the Informal Plenary. At that session also the Chairman will undertake consultations with all the participants involved with regard to the future work of the Preparatory Commission, including any interim arrangements. In accordance with General Assembly resolution 37/66 of 3 December 1982, provision has been made in the programme budget (1992-1993) for servicing the meetings of the Preparatory Commission to be held at Kingston and New York in 1993.

A. Plenary

Implementation of resolution II of the Third United Nations Conference on the Law of the Sea

141. The General Committee, acting on behalf of the Preparatory Commission as the executive organ for the implementation of resolution II, adopted on 12 March 1992 the Understanding on the fulfilment of obligations by the registered pioneer investor, the China Ocean Mineral Resources and Development Association (COMRA) and its certifying State, China (LOS/PCN/L.102, annex). On 18 August 1992, the General Committee adopted the Understanding on the fulfilment of obligation by the registered pioneer investor, the Interoceanmetal Joint Organization (IOM) and its certifying States, Bulgaria, Cuba, Czechoslovakia, Poland and the Russian Federation (LOS/PCN/L.108, annex).

142. During the tenth session, the Group of Experts submitted a report based on a detailed examination of the documents submitted jointly by the registered pioneer investors on the preparatory work concerning the exploration of the area reserved for the Authority (LOS/PCN/R.10). At its meeting on 12 March 1992, the General Committee considered the report and approved its recommendations.

143. At that session also the General Committee considered and took note of the periodic reports submitted by the certifying States - France, India, Japan and the Russian Federation - on the pioneer activities carried out by the registered pioneer investors.

144. The General Committee took note of the report of the third meeting of the Training Panel, approved the recommendations and designated the six candidates selected by the Panel for the traineeships under the training programmes offered by France and Japan. The General Committee also took note of the communication on the training programmes offered by India and the Russian Federation (LOS/PCN/L.108).

145. With regard to the preparation of the draft rules of procedure for the organs of the Authority, the Plenary completed its consideration of the draft Headquarters Agreement between the International Seabed Authority and the Government of Jamaica (LOS/PCN/WP.47/Rev.2); the draft Protocol on the privileges and immunities of officials and experts (LOS/PCN/WP.49/Rev.2); and the draft Agreement concerning the relationship between the United Nations and the International Seabed Authority (LOS/PCN/WP.50/Rev.2).

146. The Plenary completed its consideration of the functions of the Finance Committee and continued exchanging views on the issue of decision-making in that Committee.

B. Special Commission 1

147. The Ad Hoc Working Group completed its work on the three "hard core" issues entrusted to it, namely, criteria for identification of developing land-based producer States likely to be or actually affected by seabed production in the near future; the issue of assistance for developing land-based producer States including system of compensation fund and the issue of effects of subsidized seabed mining (LOS/PCN/L.104, annex).

148. The Chairman's Negotiating Group has reviewed the 17 provisional conclusions and their annexes, which can form the basis of the recommendations to the Authority.

149. With the consideration of the background paper on projection of demand, supply and price of metals contained in polymetallic nodules (LOS/PCN/SCN.1/WP.15), Special Commission 1 has completed its consideration of all the items contained in its work programme (LOS/PCN/SCN.1/1984/CRP.3).

C. Special Commission 2

150. The Special Commission focused on working papers and documents relating to (a) provisions of the Convention relating to the structure and organization of the Enterprise; (b) suggestions of the Chairman to facilitate discussion on transitional arrangements for the Enterprise; (c) joint venture as the operational option for the Enterprise in its initial operation; and (d) the Preparatory Commission Training programme.

151. The Special Commission agreed on the contents of its draft final report (LOS/PCN/L.105). It will contain a summary of the mandate of the Commission; a concise summary of the overall accomplishments of the Commission, as well as the relevant documentation.

152. The Chairman of the Advisory Group on Assumptions submitted a draft final report. It should be noted that this report concluded that:

> "The Group was of the view that there was need for continuity in its work suggesting that its successors, during the period before the entry into force of the Convention, should concentrate, inter alia, on periodic analysis of world markets and metal prices, their trends and forecasts; collection of information on and evaluation of technological developments; and assessment of the state of knowledge of deep sea environments and possible impacts of mining activities. In this connection the Group believed that the Secretariat could take up these activities for the time being" (LOS/PCN/SCN.2/1992/CRP.6).

153. The Special Commission, at its eleventh session, will consider its draft final report, including a review of the draft final report of the Chairman's Advisory Group on Assumptions.

D. Special Commission 3

154. The Special Commission resumed its consideration of documents LOS/PCN/SCN.3/WP.6/Add.6 (Accounting principles and procedures) and LOS/PCN/SCN.3/WP.6/Add.8 (Labour, health and safety standards). With the completion of the consideration of those two papers, the Special Commission considered that it had concluded the final examination of all parts of the deep seabed mining code, which formed the mandate of the Special Commission (LOS/PCN/L.99).

155. At its summer meeting in 1992, the Special Commission commenced consideration of the provisional final draft report (LOS/PCN/SCN.3/1992/CRP.17) and this will be continued at the eleventh session of the Commission.

E. Special Commission 4

156. The Special Commission completed its review of the revised draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (LOS/PCN/SCN.4/WP.5/Rev.1 and Corr.1) with the redraft of article 32 contained in LOS/PCN/SCN.4/1992/CRP.45.

157. It adopted the draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1), together with the redraft of articles contained in document LOS/PCN/SCN.4/1992/CRP.46.

158. The Special Commission decided that its agenda for the eleventh session would be "to survey and consider the draft final report, including the pending issues", with two delegations expressing reservation (LOS/PCN/L.107).

PART TWO

ACTIVITIES OF THE DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

I. INTRODUCTION

159. With the restructuring of the Secretariat of the United Nations early in 1992, the Office for Ocean Affairs and the Law of the Sea was integrated, effective 1 March 1992, within the Office of Legal Affairs as its Division for Ocean Affairs and the Law of the Sea, and the Office of the Special Representative of the Secretary-General for the Law of the Sea ceased to exist. Under the new organizational arrangement, the integrated approach by the Organization to ocean affairs and the law of the sea has continued and the programme on law of the sea and ocean affairs as set out in Programme 10 of the medium-term plan 1992-1997, including its subprogramme structure and priorities, has remained unchanged.

160. The subprogramme headings shown in the medium-term plan and in the 1992-1993 programme budget reflect in programmatic terms the inherent linkages among the diverse activities in the marine field, covering the legal, political, economic, environmental, scientific and technical aspects of the Convention, as well as the impact of the Convention on States in terms of needs and opportunities. In accordance with the request of the General Assembly in resolution 44/46, the new subprogramme structure also takes into account the prospective entry into force of the Convention and the increased needs of States for assistance in the incorporation of the provisions of the Convention into their national legislation. It also addresses the additional responsibilities of the Secretary-General upon entry into force of the Convention.

161. In accordance with the request in 1991 by the General Assembly to the Secretary-General in resolution 46/78 "to provide an effective response to the increased needs of States for assistance in the implementation of the Convention", the programme activities of the Division are designed to assist Member States, and particularly the developing countries, to realize the benefits of the comprehensive legal regime for the oceans established by the Convention. This is being done through measures to facilitate a better understanding by States of the Convention, to assist them in the process of ratifying or acceding to it and to promote its wider acceptance. Essential to that objective are efforts to strengthen the legal, managerial, scientific and technical capabilities of Member States, and to facilitate the adoption of national legislation for managing maritime areas under their sovereignty and jurisdiction.

162. Also essential are activities relating to ocean policy development and integrated ocean management, including the adoption of environmental regulations and the establishment of a regime for marine scientific research consistent with the Convention. In addressing the needs for development of

human, scientific and technical capabilities, a coordinated response is provided, with or through, when appropriate, other international organizations. Training courses, seminars and workshops are planned to assist Member States in the formulation of rational ocean policy and integrated management, including national legislation and activities in conformity with the Convention, and techniques for the avoidance and the resolution of conflicts in ocean uses and for priority-setting. In view of the highly technical and scientific nature of certain aspects of the Convention, expert groups are convened as necessary and their findings are utilized in the preparation of studies and reports on selected issues.

163. The Division has also continued to service the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, as summarized in section II below.

164. Specific activities undertaken by the Division to assist States in the past year are summarized in section III below.

165. The coordination of marine-related activities of the organizations within the United Nations system involves an enhanced level of cooperation among them to ensure that specialized sectoral activities carried out system-wide are consistent with the Convention and that a concerted approach is taken to respond fully to the resolutions of the Assembly, to questions of global significance, such as the environment and development, and to the needs of States in realizing the benefits under the Convention. Activities of the Division related to coordination are described in section IV below.

166. In accordance with the request of the General Assembly in resolution 46/78 of 12 December 1991, the measures being taken to facilitate the realization by States of the benefits of the regime contained in the Convention are also kept under review, in cooperation with States and the competent international organizations, and will continue to be reported on periodically to the Assembly. Such a review is a necessary and ongoing function of the Division in seeking to strengthen, where necessary, the responsiveness of its programme of activities to the needs of States.

167. A special activity was undertaken in 1992 in response to the request of the General Assembly in its resolution 46/78 to submit a special report on the "progress made in the implementation of the comprehensive legal regime embodied in the United Nations Convention on the Law of the Sea, in the light of the tenth anniversary in 1992 of its adoption, and to take such action, in consultation with States, as may be appropriate to mark the occasion". In January 1992, the Division convened a meeting of a group of experts on the impact of the Convention on the Law of the Sea. Eighteen experts, representing all major regions of the world, who had made prominent contributions to the negotiations leading to the adoption of the Convention and to national and regional developments thereafter participated in the meeting. Subsequently, some of those experts prepared analyses and reviews of the progress made in the major regions in respect of the Convention, which provided a basis for the special report submitted by the Secretary-General to

the General Assembly at its present session (see para. 1 above). The papers of some of the experts also form a basis for a more comprehensive study on the same subject now being prepared by the Division for publication in 1993.

II. SERVICING THE PREPARATORY COMMISSION

168. The progress of work in the Preparatory Commission is described in Part One of the present report. In 1992, there were 71 meetings of the major organs of the Preparatory Commission, which included 7 formal meetings of the Plenary, 7 meetings of the Plenary as a Working Group on the organs of the International Seabed Authority, and 53 meetings of the four Special Commissions.

169. Following the usual practice, several working papers and studies were presented to the Commission and its subsidiary organs by the Secretariat. These included a revised draft of criteria for the identification of developing land-based producer States actually or likely to be affected by seabed production; draft regulations on labour, health and safety standards; progress report of the Chairman of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea on the work of the Commission; final draft rules of procedure on the organs of the Authority; final draft agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority; the final draft protocol on the privileges and immunities of the International Seabed Authority; final draft agreement concerning the relationship between the United Nations and the International Seabed Authority; projection of future demand, supply and price of the metals contained in polymetallic nodules.

170. In accordance with the decision of the Preparatory Commission, the Plenary and each of the Special Commissions 1, 2 and 3 prepared the component parts of a draft provisional or final report. Similarly, Special Commission 4 prepared a draft outline for the final report on arrangements for the Tribunal.

III. ADVISORY SERVICES

171. The provision of assistance and advice to Member States either directly or through intergovernmental organizations or otherwise has been called for repeatedly and was reiterated by the General Assembly most recently in resolution A/46/78, in which, inter alia, it noted "... the increasing needs of countries, especially developing countries, for information, advice and assistance in the implementation of the Convention and in their developmental process for the full realization of the benefits of the comprehensive legal regime established by the Convention ...".

172. The General Assembly has also recognized once more the need to enhance and supplement the efforts of States and competent international organizations aimed at enabling developing countries to acquire the necessary scientific and technological capabilities required for the full realization of their benefits under the Convention.

A. Direct advice and assistance to Governments and to intergovernmental organizations

173. In 1992, the Division has continued to provide direct assistance to Member States and intergovernmental organizations, at their request, including measures undertaken in response to their needs, as set forth below.

174. In continuing support to the Indian Ocean Marine Affairs Cooperation (IOMAC) process, assistance was provided to IOMAC members, comprising the Asian and African States bordering the Indian Ocean, to the IOMAC secretariat, and, in preparation for and at the Eighth Meeting of the Standing Committee, held from 26 to 30 October. The Standing Committee deals with, inter alia, such matters as the follow-up to the Second IOMAC Conference and acceptance of the Agreement on the Organization, which several participating States have under review for ratification. Its Technical Cooperation Group (TCG) has formulated recommendations for activities pursuant to the last Standing Committee meeting, regarding some of which the Division has a cooperative role. IOMAC continues to have under review the follow-up to the reports of the Secretary-General on the needs of States (A/45/712 and A/46/722).

175. Following the request of the Government of Côte d'Ivoire in 1991, and the subsequent report prepared by the Division on the legal and institutional aspects of the marine policy of Côte d'Ivoire in 1991, the Division organized, under a UNDP-funded project, an interministerial meeting in Abidjan from 30 September to 3 October 1992 with a view to assisting the Government in reviewing its marine policy in order to maximize the benefits of the development of marine resources and [illegible]ses. The meeting adopted a programme recommending the establishment of an integrated marine policy for the Republic of Côte d'Ivoire, the components of which are aimed at strengthening the economic and social development of that country through the better use of national resources and the marine environment. In addition, the meeting agreed to establish a follow-up group in charge of coordination of all interested Ministerial Departments under the aegis of the Ministry of Equipment, Transportation and Tourism.

176. Following the adoption of the Convention on Fisheries Cooperation among African States Bordering the Atlantic Ocean at the second session of the Ministerial Conference on Fisheries and Cooperation among African States Bordering the Atlantic Ocean, held at Dakar, Senegal, on 4 and 5 July 1991, the Division has continued to work with the Conference secretariat and with FAO in assisting in the development of specific projects arising from the work programme set out at the Second Conference.

177. The Seventh International Conference on Peace and Security in Southern Africa was held in Arusha, the United Republic of Tanzania, from 20 to 24 July 1992. The objective of the Conference was to explore the possibility of advising States of the region on ways of institutionalizing security and cooperation in southern Africa as an important vehicle for regional development into the next century. The Division contributed two conference papers on possible marine cooperation and conflict resolution in marine affairs in the southern Africa region.

178. In 1992, at the request of the Marine Institute, Newfoundland, Nova Scotia, Canada, the Division also provided technical advice for the design and implementation of a simulation exercise in sea use planning.

179. Also in the field of coastal area/exclusive economic zone policy, planning and management, at the request of Ente Colombo '92 (an Italian Government entity created for the celebration of the Quincentenary of the Discovery of the Americas), the Division cooperated in the organization of an International Conference on Ocean Management in Global Change, which took place from 22 to 26 June in Genoa, Italy. The nearly 200 participants included scholars, practitioners and experts from Governments and international organizations. The Conference was aimed at examining trends in ocean management with special emphasis on the relationships between resource development and environmental protection and with particular attention to the results of the United Nations Conference on Environment and Development.

180. In addition to direct advice and assistance to Governments and intergovernmental organizations, the Division continued in 1992 to participate in conferences, seminars and workshops organized by governmental, intergovernmental and non-governmental organizations. Supporting its representation at those meetings, the Division prepared special papers and studies as a substantive input, providing analyses of and advice on issues related to the Convention on the Law of the Sea. The meetings assisted or supported in 1992 included the following: the sixteenth annual seminar, entitled "National Energy Policy and the Oceans", organized by the Center for Ocean Law and Policy, from 9 to 11 January 1992, at Key Largo, Florida; and the Twelfth Training Programme on Management and Conservation of Marine Resources within the Exclusive Economic Zone, organized by the International Ocean Institute on 27 and 28 July, Halifax, Nova Scotia.

B. Publications

181. The monitoring of developments in the context of the legal regime for the oceans is an ongoing function of the Division, one which underlies and is essential to the provision of advice and information and to all other programme activities. This function also constitutes the basis for some of the Division's publications, of which the following were in preparation or were issued in 1992.

1. Legislative histories and conference documents

182. In 1992, two further volumes in the legislative histories series were published, one on passage through straits used for international navigation and another on the basic provisions on the exclusive economic zone. 71/

183. Another publication series contains the official documentation of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, as well as related press

releases and a cumulative index, covering the work of the Preparatory Commission from its first session in 1983 to its eighth session in 1990. Volume I in this 11-volume series has been published by the United Nations, 72/ and volumes II and III are expected to be issued in the near future.

184. Another publication near completion is a compendium of the official documentation of the Drafting Committee of the Third United Nations Conference on the Law of the Sea, which is intended to provide a better understanding of the various provisions of the Convention and their history.

2. Handbooks

185. In 1991, the regime of high seas fisheries under the Convention was examined by an expert meeting convened by the Division from 22 to 26 July 1991. A technical publication on this subject has been issued (see also para. 107 above and footnote 62).

186. During 1992, preparations were made to convene a Group of Experts on the Continental Shelf. The Group is scheduled to meet in 1993 to examine the technical issues related to the definition of the continental shelf as provided for in article 76 of the Convention on the Law of the Sea. A background paper drafted by the Division for Ocean Affairs and the Law of the Sea will be circulated to the experts invited to participate in the meeting. After a review and assessment of the results of the meeting, a handbook on this subject will be published. As in the case of handbooks on baselines and on the regime for marine scientific research in areas under national jurisdiction that were published previously, the handbook on the definition of the continental shelf is intended to provide assistance to States in understanding some highly technical provisions of the United Nations Convention on the Law of the Sea. The handbook is also intended to facilitate at the initial stage the work of the future Commission on the Limits of the Continental Shelf.

3. State practice

187. During the period under review, the Division issued three additional publications on State practice: a compilation of maritime boundary agreements covering the period 1985-1991; a compilation of national legislation of archipelagic States; and an updated and revised edition of the publication dealing with national legislation on the exclusive economic zone. 73/

4. Bulletins, annual reviews, bibliographies, directories, information circulars and booklets

188. Further issues of the Law of the Sea Bulletin (numbers 19, 20 and 21) were published and distributed in 1992. The Bulletin provides Governments with the most recent legal material relevant to the law of the sea -

including, in particular, national legislation, bilateral agreements and multilateral treaties, as well as information on decisions of the International Court of Justice, arbitral tribunals or other dispute-settlement procedures - and periodic updates on the status of the Convention, with tables of ratifications, texts of declarations and objections to declarations or statements made in accordance with articles 287, 298 and 310 of the Convention. Every year, one issue of the Bulletin contains a special chapter devoted to the annual work of the Preparatory Commission (No. 20 for 1992). More than 2,500 copies in English, and approximately 1,000 copies each in French and Spanish of every issue have been circulated in 1992 to meet a demand that is growing every year.

189. The Annual Review of Ocean Affairs: Law and Policy, Main Documents is intended to provide practitioners and researchers with an overview in one convenient source of the main developments in international ocean law and policy. It draws upon reports, studies, working papers and other material of the United Nations and other international organizations. Previous volumes, covering the period 1985-1988, were published by UNIFO Publishers, Ltd. The next volume in the series is under preparation and will be issued in 1993.

190. The Division prepares an annual bibliography on the law of the sea and marine affairs. The seventh bibliography in this series, The Law of the Sea: a Select Bibliography, 1991, was published in 1992. 74/

191. The Division is also completing the compilation of a bibliography on the law of the sea referring to material published during the 20-year period 1968-1988 in the Arabic, Chinese, German, Italian, Russian and Spanish languages. It will be published shortly as a multilingual supplement to the English/French bilingual volume published in 1991.

192. Also, work is near completion for the publication of an annotated directory of international organizations with competence in marine affairs within the context of the Convention on the Law of the Sea.

193. The Division continues circulating periodically current and up-to-date information on national and international developments relating to ocean affairs and the law of the sea to other offices and departments of the Organization.

194. As part of the activities undertaken to commemorate the tenth anniversary of the adoption of the Convention, the Division has completed work on a booklet highlighting the significance of the treaty and some of its major provisions. The booklet, meant for use by the general public, contains explanatory and educational material on the law of the sea, and also highlights key provisions of the Convention.

195. In order to commemorate this anniversary, a comprehensive review of the impact of the Convention during the last 10 years is also being prepared. This is based on the contributions provided by some of the experts who participated in the meeting of the Group of Experts held in New York from 27 to 29 January 1992.

C. Training and fellowships

196. In the field of integrated ocean management and as part of a long-standing cooperative effort, the Division has continued to assist the World Maritime University in its on-the-job training efforts by receiving selected groups of students and briefing them on the work of the United Nations in the field of ocean affairs and the law of the sea. The Division has also continued its substantive contribution to the conduct of the annual "Marine Affairs II Seminar: Sea-Use Planning and Management" at the World Maritime University.

197. At the request of the International Ocean Institute (IOI), the Division provided technical assistance in the design of a new course in ocean and coastal policy planning specially tailored to address training needs at the regional and subregional levels. The course will be implemented in different regions in cooperation with UNEP and IOI.

Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea

198. The fellowship programme on the Law of the Sea continues to attract widespread interest; nominations and applications for the sixth annual award have been received from over 78 applicants from 43 countries. The objective of the programme, which is administered by the Division, is to promote wider understanding and acceptance of the provisions of the Convention on the Law of the Sea. It provides facilities for fellowship recipients to carry out postgraduate studies or research and training in the law of the sea or related marine affairs at the participating universities. It is intended to further the fellow's knowledge and specialization and thus to benefit his or her country. The fellows are chosen on the basis of a demonstrated capacity for advanced study in the area of the law of the sea and in marine affairs.

199. The award is made on the basis of a review of candidates by an Advisory Panel. The Panel for the sixth annual award, under the Chairmanship of Professor John Norton Moore, Director of the Center for Ocean Law and Policy, University of Virginia, met in December 1991 and made its recommendation, on the basis of which the fellowship was awarded to Mr. Igor Vio, an Assistant Lecturer in the Law of the Sea and Maritime Law Department, University of Rijeka, Croatia. Mr. Vio has been following his fellowship-in-residence programme at the School of Law, University of Miami, under the supervision of Professors Bernard Oxman and Thomas Clingan. This will be followed by the usual three-month internship with the Division for Ocean Affairs and the Law of the Sea.

200. The Panel has also recommended that every endeavour should be made to accommodate more than one fellow each year, and that efforts should be made to secure additional funding for that purpose. It has only been possible to accommodate one fellow per year from the income of the Hamilton Shirley Amerasinghe Fellowship Fund. Should additional or alternative funding be available, additional candidates could be accommodated each year. If funding could be provided from other sources, including the countries of candidates' origin, then additional candidates could also benefit from the facilities made available under the programme by the participating universities. 75/

D. Law of the Sea Information System and Library

1. Law of the Sea Information System

201. The Division has proceeded with the further development of its computerized Law of the Sea Information System (LOSIS). This system is composed of a group of databases, each containing information relating to the different aspects of the law of the sea, and they are currently being supplemented by the collection of additional marine-related data. 76/ The System continues to serve as a source of information and data within the Division and to respond to requests from other agencies, national Governments and other users.

202. Recent developments in the membership of the United Nations have necessitated extensive revisions and updating of information in the Country Marine Profile Database (MARPRO) and the National Marine Legislation Database (LEGISLAT), which have been undertaken.

203. A new database, POLYDAT (Polymetallic Nodule Deposits Database), was recently requested by the Preparatory Commission. 77/ It will maintain the data on the site reserved for the International Seabed Authority presented by the three registered pioneer investors, IFREMER/AFERNOD, DORD and Yuzhmorgeologiya. China and the Interoceanmetal Joint Organization will provide data obtained in the reserved area they explored which will be incorporated in the new database.

2. Law of the Sea Library

204. The specialized Law of the Sea Library and reference collection continues to be strengthened by the acquisition of the latest publications in the field of the law of the sea and ocean affairs, which includes scientific and technical publications. Since 1990, the services of the reference library have been expanded by the continued development and updating of a computerized database especially designed to contain all the holdings of the Library. This Library Bibliographic Information System (LIBRIS) is being further expanded to include the holdings at the Kingston Law of the Sea Library. Thus, the Kingston Library holdings, which are primarily seabed in orientation, would be accessible to external users and to the New York office.

205. The Kingston Library has facilitated the servicing of the annual sessions of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, which are held in Kingston. This has involved processing information and documentation requests from participants at the meetings of the Preparatory Commission, and intersessionally, processing similar requests from researchers, national Governments and academic institutions in the region. At the present time the library is opening up its facilities and services to researchers and scholars of the University of the West Indies, legal practitioners and coastal/ocean affairs specialists interested in subjects related to ocean affairs and to the law of the sea, as well as to government personnel dealing with those matters.

206. Also, the Aquatic Sciences and Fisheries Abstracts (ASFA), a comprehensive database which includes citations and abstracts of documents and publications dealing with the law of the sea and other marine-related activities, is available on CD-ROM and is now accessible in the Division. Multi-level searches including author, title, subject and geographic area can be conducted for on-screen review or printout of an entire search or subset thereof (see also para. 213 below). This service is also being developed in the Kingston Law of the Sea Library.

IV. COOPERATION WITHIN THE UNITED NATIONS SYSTEM

207. Pursuant to the request of the General Assembly, repeated in its resolution 46/78, the Division for Ocean Affairs and the Law of the Sea has continued its close cooperation with and assistance to United Nations agencies and other bodies within the United Nations system and other units of the Secretariat.

208. The Division cooperated with the secretariat of UNCED in the preparation, jointly with the relevant agencies and bodies, as appropriate, of several background reports and a set of recommendations for action as contained in draft Agenda 21 on the topic of "protection of oceans, all kinds of seas including enclosed and semi-enclosed seas, coastal areas and the protection, rational use and development of their living resources". The Division was represented at the UNCED Preparatory Committee and at the Conference itself. The Division also prepared for circulation at UNCED a special report of the Secretary-General on the protection and preservation of the marine environment (A/CONF.151/10), in compliance with the request of the General Assembly in its resolution 44/26 of 20 November 1989.

209. In 1992, the Division continued its cooperation with FAO on the subject of high seas fishing. This involved, inter alia, substantive contributions to, and participation in, a Technical Consultation on High Seas Fisheries, convened by FAO in Rome from 7 to 15 September 1992.

210. At the request of IMO, the Division cooperated in the preparation of a background document on the legal issues regarding ship reporting systems and vessel traffic services (VTS), which was discussed during the 67th meeting of the Legal Committee of IMO.

211. The Division was also called upon to coordinate United Nations system participation in the International Specialized Exhibition "Christopher Columbus: Ships and the Sea", held at Genoa, Italy, from 15 May to 15 August 1992, under the theme "The Oceans - Our Future". This was done pursuant to the decision of the Joint United Nations Information Committee. The "UN Day" was celebrated on 26 June 1992, with a delegation consisting of several representatives of the participating organizations and bodies.

212. In relation to ongoing specific joint activities and programmes, the Division has continued its co-sponsorship of, and participation in, the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP), which

held its twenty-second session in March 1992. The Division also has continued its co-sponsorship, together with IOC of UNESCO, of a joint Programme on Ocean Science in Relation to Non-Living Resources (OSNLR).

213. The Division also continues its co-sponsorship of the joint UN/FAO/IOC Aquatic Sciences and Fisheries Information System (ASFIS). In that context, the Division is cooperating with other United Nations organizations to develop measures and activities aimed at improving marine information management within the United Nations system. As an international coordinating input Centre for the Aquatic Sciences and Fisheries Abstracts (ASFA), the major information module of ASFIS, the Division has continued to support development of this inter-agency bibliographical information service. It monitors documents and publications relating to the law of the sea and other marine-related activities from which abstracts and bibliographical data are prepared for inclusion in the ASFA computer-searchable database and the corresponding ASFA monthly journals.

214. Lastly, the Division was represented at, and made contributions to, a number of meetings within the United Nations system, including the following: Meeting of Senior Government Officials Expert in Environmental Law, Rio de Janeiro, 30 October-2 November 1991; Task Force on High-Seas Fishing, FAO, 25-29 May, Rome, Italy; Caribbean Workshop Strengthening Regional Activity, UNEP, 17-19 June, Kingston, Jamaica; Conference on the Adoption of a Draft Agreement for the Establishment of the Indian Ocean Tuna Commission, FAO, 22-26 June, Rome, Italy; Technical Consultation on High-Seas Fishing, FAO, 7-15 September, Rome, Italy; Workshop on Coastal Marine Areas for Research and Cultural Purposes in the Context of Integrated Ocean Management, United Nations University, 7-10 October, Sassar, Sardinia, Italy; and the sixty-seventh session of the Legal Committee, IMO, on the legal issues regarding mandatory ship reporting systems and vessel traffic services (VTS).

Notes

1/ A table of claims to maritime zones, periodically updated, is available from the Division for Ocean Affairs and the Law of the Sea.

2/ The texts of recent legislation of Argentina, and of Belize, China, Jamaica, Namibia and Poland are reproduced in Law of the Sea Bulletin, Nos. 20 and 21, respectively.

3/ See statement by the Minister for Foreign Affairs of Belize, 3 April 1992 (A/47/173-S/23837, annex). Guatemala formally recognized Belize on 5 September 1991.

4/ Text in International Challenges, vol. 12, No. 1 (1992), p. 121.

5/ The study is being conducted as part of the Norway/Finland/Russia "Euro-Arctic Region" initiative, covering cooperation in fields such as transport, fisheries, energy and environmental protection.

Notes (continued)

6/ For the statement by the Chairman of the Verkhovna Rada of Ukraine of 20 December 1991, see A/47/67, annex II.

7/ For the Joint Statement, see Law of the Sea Bulletin, No. 14, p. 12.

8/ For the CIS Agreement, see International Legal Materials, vol. XXXI, No. 3 (May 1992), p. 495. For the Agreement between the Russian Federation and Ukraine, see A/47/376, annex.

9/ Law on the Succession of Ukraine (A/46/587, annex) recognizes the frontiers of 16 July 1990, which would include the territorial sea limit in the Black Sea. Future maritime delimitation for Russia would be with the three other Caspian Sea States, with Ukraine and Georgia in the Black Sea, and with Estonia and Lithuania in the Baltic Sea.

10/ The Protocol on bilateral cooperation (8 March 1992) between Norway and Russia affirms that bilateral and multilateral international obligations and agreements concluded by the Soviet Union will be fulfilled by Russia.

11/ See note 10. The Protocol deals also with fisheries and environmental cooperation in the Barents and adjacent Seas.

12/ Land, Island and Maritime Frontier Dispute (El Salvador/Honduras; Nicaragua Intervening), vol. 1, Judgment of 11 September 1992; I.C.J. Reports 1992, para. 432.

13/ Ibid., paras. 418 and 420.

14/ Case concerning the delimitation of the maritime areas between Canada and France. Decision of 10 June 1992, para. 85. See International Legal Materials, vol. XXXI, No. 5 (September 1992), p. 1145.

15/ Passage through the Great Belt (Finland v. Denmark), Order of 10 September 1992, I.C.J. Reports 1992, para. 348.

16/ It may be noted that Italy, in 1989, applied to IMO for technical advice on the navigational aspects of a proposed bridge over the Strait of Messina. That Strait is excluded from the application of the transit passage regime; the more limited regime of non-suspendable innocent passage applies.

17/ Most of the reaffirmed claims concern the Spratly Islands. In other parts of the region, Malaysia reportedly renewed (October 1991) its claim to the small island of Batu Puteh or Pedra Branca, also claimed by Singapore, which mans its lighthouse. Viet Nam issued a protest (A/47/430 and Corr.1) concerning the Chinese announcement in September 1992 of the resumption of oil exploration activities in the Gulf of Tonkin, where the two countries have a boundary dispute. Viet Nam has cited the 1974 Agreement by which the two countries had agreed to suspend such activities pending demarcation of the area. China subsequently responded to Viet Nam, stating that the oil-drilling activities were in the area of Chinese jurisdiction (A/47/472).

Notes (continued)

18/ China has also claimed the Paracel (Xisha) Islands (also claimed by Viet Nam), the Pescadores, Senkaku (Diaoyu), Pratas Bank (Dongsha), and Macclas Field Bank (Zhungsha). Japan has protested the claim with respect to Senkaku. The last time an offshore contract was awarded in the South China Sea was in 1973.

19/ Viet Nam and Malaysia have also agreed (23 January 1992) to develop jointly any economic opportunities that might arise in offshore areas that both countries claim. China, Taiwan Province of China and the Philippines objected to that agreement and all reaffirmed their previous claims of sovereignty with respect to the Spratly Islands. The two countries affirmed their previous agreement on 21 April, stressing that it applied exclusively to offshore areas claimed by both.

20/ Law of the Sea Bulletin, No. 21, August 1992, p. 87.

21/ The 1988 Convention has 50 Parties, including EEC. Only some 10 countries have taken legislative or administrative measures to implement article 17. The gaps mainly concern failure to ensure that trafficking by sea is punishable under national law; failure to extend jurisdiction to cover offences committed aboard their vessels wherever located; lack of adequate registry information; and inability to respond rapidly to requests for cooperation. (See Report of the Commission on Narcotic Drugs on its XXVth Session (Official Records of the Economic and Social Council, 1992, Supplement No. 25 (E/1992/25, para. 55))).

22/ The Declaration, signed by Bolivia, Colombia, Ecuador, Mexico, Peru, the United States of America and Venezuela, has an attached Strategies for Action, which contains a section on maritime control actions which calls for mechanisms to permit rapid verification of the registry and ownership of vessels suspected of trafficking that are operating beyond the territorial sea (A/47/210, annex, Strategies for Drug Control and the Strengthening of the Administration of Justice, sect. (5)).

23/ The Forum agreed to give priority to ratifying and implementing the 1988 Drugs Convention and, in its Declaration on Law Enforcement Cooperation, indicated that further legislation might be necessary on drug issues. The South Asian Association for Regional Cooperation (SAARC) is making efforts to harmonize the drug laws of its member States; the Regional Cooperative Network of Maritime Authorities of South America (ROCRAM) is also active in the prevention of drug trafficking by sea.

24/ The work, initiated by the Pompidou Group, is to be taken over by a wider group, established under the European Committee on Crime Problems.

25/ See also General Assembly resolution 46/103 of 16 December 1991, which called for analyses of the methods and routes used for transit drug traffic with a view to establishing a system that would enhance interdiction capabilities.

Notes (continued)

26/ In 1987, IMO adopted guidelines on the prevention of drug smuggling on ships engaged in international traffic.

27/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10 (A/46/10), para. 176.

28/ See IMO Assembly resolution A.683(17) of 6 November 1991. IMO has made further urgent appeals for the prompt submission of reports of incidents, and has recommended the use of regional search and rescue communication systems and the organization of regional seminars to develop combating plans (see MSC/Circ.597).

29/ The Council represents more than 50 per cent of world merchant tonnage with membership from 106 countries.

30/ The need for coordinated action, involving both government and industry, has been widely recognized, for example, at the special meeting of law enforcement officals and shipping industry representatives, organized by the International Maritime Bureau of the International Chamber of Commerce (February 1992). See the Bureau's Special Report entitled Piracy (June 1992).

31/ The Forum is strengthening the South Pacific Organizations Coordinating Committee and will seek a stronger economic relationship with ASEAN. Decisions of the Forum also exemplify the trend towards broader concepts of security. For example, the South Pacific Regional Environment Programme (SPREP) will now be involved with the Forum Regional Security Committee on environmental aspects.

32/ See CSCE Helsinki Summit Declaration and Decisions, including Decision X on the Mediterranean region (A/47/361-S/24370, annex).

33/ See IOC Executive Council resolution EC-XXV.2, adopted at the twenty-fifth session of the Council in March 1992.

34/ The project is jointly sponsored by the coastal States, the GEF and other international and bilateral agencies.

35/ See IMO document C 68/INF.3.

36/ The OECD Report (in press) is based on 16 case-studies. It identifies measures, whether policy instruments or institutional arrangements, for better integration of economic and environmental considerations.

37/ IMO has established a Working Group on Strategy for Port Interface, which will meet for the first time in December 1992. Also, virtually all regional transport/communications programmes now focus on the utilization of port capacities and their improvement (see E/1992/65).

Notes (continued)

38/ The meeting of IOC, WMO, IMO, FAO, the United Nations and UNEP was convened by the Director-General of UNESCO in his capacity as depositary of the ICSPRO Agreement. The IOC Executive Council has agreed that ICSPRO should be further strengthened.

39/ Earlier drafts of the Convention had included annexes, for example, one containing an indicative list of subjects requiring cooperative research and systematic observations.

40/ For the report, see UNEP (OCA)/WG.14/4.

41/ See the 1992 ECE Conventions on the Protection and Use of the Transboundary Watercourses and International Lakes and on Transboundary Effects of Industrial Accidents. Developments with respect to international liability are also pertinent: Council of Europe draft Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment; EEC proposed directive on civil liability for damage caused by waste; ECE draft guidelines on responsibility and liability for transboundary water pollution; and the International Law Commission's draft articles on international liability for injurious consequences arising out of acts not prohibited by international law.

42/ Text of the Convention in IMO document MEPC 33/INF.10.

43/ Text of the Convention, as well as that of the Protocols, in IMO document LDC.2/Circ.303.

44/ The two Commissions had worked closely for some time through joint meetings, a monitoring group and scientific and technical working groups.

45/ For the text of the Declaration, see Environmental Policy and Law, vol. 22, No. 1 (1992), p. 58.

46/ The 1992 UNEP Report on the State of the Environment contains some important cautions: high-level radioactive wastes continue to be stockpiled, and some 143 facilities in 17 countries are at some stage of decommissioning. See also the IAEA report on accidents and losses at sea involving radioactive material (LDC 14/INF.2).

47/ For the text of the draft Convention in the Report of the Conference on Disarmament, see Official Records of the General Assembly, Forty-seventh Session, Supplement No. 27 (A/47/27), appendix I, p. 107.

48/ See articles III and IV of the draft Convention, and Part IV (A), para. 13, of the Verification Annex. Note also that the European Parliament has called on members to provide information and maps pinpointing military dumping sites, types of arms and quantities; and the Council of Baltic States has appealed for the establishment of a special international commission to study potential threats of military waste disposal, particularly in the territorial waters of Latvia and Lithuania (see A/47/317, annex).

Notes (continued)

49/ IAEA review of the implementation of its guidelines found that a large number of States had adopted legislation or procedures, though mostly within national boundaries.

50/ See IMO document MSC 61/16/2. The South Pacific Forum has expressed concern that the highest safety and security standards should be applied and that transit countries should be consulted. This has been prompted by Japan's actions in shipping plutonium from Europe.

51/ See IMO document LDC 15/5/1.

52/ This work is carried out under the GESAMP mechanism.

53/ The inclusion of the original version of this paragraph was proposed by members of ASEAN at the UNCED Preparatory Committee (March 1992).

54/ See statement by the Minister for Foreign Affairs of Malaysia at the General Assembly on 23 September 1992, A/47/PV.9, pp. 89-90.

55/ The new Malaysian Contingency Plan, combining government and industry effort, may form the basis for a wider arrangement. It covers all waters claimed by Malaysia in the Malacca Straits and South China Sea.

56/ See particularly IMO resolution A.681(17) which extends port-State control to ship operational requirements.

57/ See IMO document MSC 60/21 of 1 May 1992.

58/ See IMO document NAV 38/22 of 10 August 1992.

59/ See IMO documents Leg/67/8/1; Leg/67/8/Add.3 and Leg/67/WP.1.

60/ Marine environmental forums have expressed similar concerns, for example, the revised Action Plan for the Protection of the Marine Environment and Coastal Areas of the Southeast Pacific (Colombia, Chile, Ecuador, Panama and Peru) includes a call for the international community to carry out joint scientific, technical and economic studies with a view to taking appropriate measures and establishing immediately mechanisms for conservation and optimum use of straddling stocks.

61/ In 1989, the General Assembly adopted resolution 44/225, its first resolution on driftnet fishing, which led to the first report on the subject (A/45/663).

62/ The Law of the Sea: The Regime for High-Seas Fisheries - Status and Prospects concludes by suggesting certain guidelines for more effective implementation of the Convention (United Nations publication, Sales No. 92.V.12).

Notes (continued)

63/ See the communiqué of the twenty-third South Pacific Forum (A/47/391, annex, Declaration on Law Enforcement Cooperation, para. 17). The Forum Fisheries Agency continues to develop the maritime surveillance communication network, in cooperation with the Forum Regional Security Committee on law enforcement aspects, and is seeking to interface further its network with other regional communication networks. The Forum Secretariat is also called on to play an active role with regard to legal issues in the maritime sector.

64/ See Report 1991 from the Commission to the Council and the European Parliament on the Common Fisheries Policy (SEC(91) 2288(final), 18 December 1991), and the Opinion of the Economic and Social Committee on the Report (CES 638/92, 27 May 1992).

65/ Report on Monitoring Implementation of the Commmon Fisheries Policy, SEC(92)394 Final, 6 March 1992.

66/ Commission inspections under NAFO have been conducted as part of the common programme and, in 1991, they were also conducted for some seven months directly by the Commission. Since some doubts still persist about the actual total catches of certain fleets, it was decided to step up inspections both at sea and at the point of landing. No inspections have been done in the area of the Convention on the Conservation of Antarctic Marine Living Resources since Community vessels are still not very active there.

67/ Sanctions on overfishing are currently limited to cases of overfishing where another member suffers consequent damage.

68/ See Report of its twenty-second session, GESAMP Reports and Studies, No. 49.

69/ IOC has started a special newsletter, Harmful Algae News.

70/ See IOC Assembly resolution XVI-19 and Executive Council resolution EC-XXV.9.

71/ United Nations publications, Sales Nos. E.92.V.14 and E.92.V.8.

72/ United Nations publication, Sales No. E.91.V.10.

73/ United Nations publications, Sales Nos. E.92.V.2, E.91.V.15 and E.92.V.3, respectively.

74/ United Nations publication, Sales No. E.92.V.6.

75/ The modalities of such assistance could be worked out between such a country and the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs.

Notes (continued)

76/ See A/42/688, A/43/718, A/44/650, A/45/721 and A/46/724 for details of the databases.

77/ The mandate is to be found in the report of the Group of Technical Experts, which states that:

> "9. It was considered necessary that the preparatory work should be done jointly by the three pioneer investors. (The Office [sic] for Ocean Affairs and the Law of the Sea would facilitate the establishment of a database). The objective of the preparatory work would be to compile and illustrate all the existing data in the Authority's areas in the central region in order to facilitate detailed planning and implementation of the first stage of the exploration plan.
>
> ...
>
> "11. A comprehensive database for sample stations would be established. Data on station number, coordinates, depth, abundance, metal content, device and information on the source of the data would be entered. The database would allow the raw data to be statistically manipulated and presented on various types of maps and graphs."